

AGREEMENT

This Agreement is made and executed at New Delhi on this [*] day of Two Thousand and [*] by and between

Prasar Bharati, a statutory body established under the Prasar Bharati Act, 1990, having its principal office at P.T.I. Building, 2nd Floor, Sansad Marg, New Delhi- 110 001 (India) herein after referred to as '**LICENSOR**', which expression shall unless repugnant to the context or meaning thereof, be deemed to mean and include its successor and permitted assigns through its representative [*] (designation) who is duly authorized to execute this Agreement, of the **FIRST PART**

AND

M/s [*], a company incorporated under the provisions of Companies Act, 1956, having its registered office at [*] hereinafter referred to as '**LICENSEE**', which expression shall unless repugnant to the context or meaning thereof be deemed to mean and include its successor and permitted assigns through its representative [*] (designation) who is duly authorized to execute this Agreement, of the **SECOND PART**

RECITALS

AND WHEREAS

- A. **Licensee** holds a License/Letter of Intent (LOI) dated [*] valid for a period of Fifteen years, which has been issued to it by the Ministry of Information & Broadcasting, Government of India for the allocation/operation of FM Radio Broadcast Channel at [*] (city).
- B. **Licensor** is engaged in Radio and Television broadcasting and owns and possesses various infrastructure assets including Land, Building and Tower Aperture among other facilities at various locations throughout India.
- C. In terms of Private FM Radio Policy (Phase- III) of the Ministry of Information & Broadcasting, Government of India, the **Licensee** is required to co-locate its FM radio transmission facilities with the existing infrastructure facilities of the **Licensor** at certain specified AIR/Doordarshan Stations.
- D. The said Policy stipulates that all Licensees holding FM Broadcast License for specified cities shall be required to set up their Common Transmission Infrastructure by using the infrastructure of the **Licensor**. The Policy further stipulates that the Licensees will have a choice to form a Consortium and set up required Common Transmission Infrastructure (CTI) for that city.

- E. Accordingly, the **Licensee** has requested the **Licensor** to grant it permission to use its infrastructure facilities situated at [*] (city), namely, Open Space (Land), Covered Space (Building), Tower Aperture & Other Miscellaneous facilities more specifically set out in Schedule-'A' hereto, hereinafter referred to collectively **Licensed Infrastructure (LI)**.
- F. **Licensor** has accepted the said request and has agreed to enter into this Agreement with the **Licensee** in respect of the Licensed Infrastructure, more specifically set out in Schedule-A' attached hereto, which shall form part and parcel of this Agreement, on such mutually agreed terms and conditions as are set forth hereinafter.

The Parties to this Agreement are referred to individually as 'Party' and collectively as 'Parties'.

NOW, THEREFORE, PARTIES TO THIS AGREEMENT BEING DESIROUS OF COMMITTING TO WRITING THEIR MUTUAL UNDERSTANDING NOW SET FORTH THE TERMS AND CONDITIONS THAT SHALL GOVERN THIS AGREEMENT.

1.0 DEFINITIONS

For the purpose of this agreement, unless the context otherwise requires, the following expressions shall have the meaning attributed to them as stated herein below:

- 1.1 **Common Transmission Infrastructure (CTI)** shall mean and include Antenna, Combiner, RF Cable, Power Supply and such other facilities installed on the Licensed Infrastructure and shared among the **Licensee (s)** and the **Licensor** (wherever applicable).
- 1.2 **Other Miscellaneous facilities** shall mean and include those facilities at Licensor's premises which are of common use.
- 1.3 **System Integrator (SI)** shall mean the entity/company/organization engaged by **Licensees/Consortium of Licensees** to integrate the CTI for the purpose of transmission of FM radio broadcasts of the **Licensee (s)**.

2.0 PERIOD OF VALIDITY OF AGREEMENT

- 2.1 Parties agree that this Agreement shall be valid for a period of fifteen years commencing from the date of its execution.

3.0 CONSIDERATION

3.1 License Fee

The Licensee shall pay License fee on an annual basis for the use of the **Licensed Infrastructure (LI)**.

- 3.2.1 The License fee shall be effective from the date of execution of the agreement.

Licensee shall pay to the **Licensor**, at the time of execution of this Agreement, License Fee inclusive of taxes as applicable, in advance, for the first year aggregating to Rs. [*]

[Rupees *], as per details set out in **Schedule-'A'** ..

3.2.2 **Licensee** shall pay, in advance, the License fee for every subsequent year subject to the conditions prescribed in Clauses 3.2.3 & 3.3 below.

3.2.3 (i) License fee for the open space, covered space and the other miscellaneous facilities shall be increased @ 5% every year on the last License fee paid.

(ii) License fee for the Tower Aperture shall be increased @ 5% every year on the last License fee paid.

All payments shall be made in favour of "Prasar Bharati, New Delhi" through a Demand Draft drawn on a Scheduled Bank payable at par at New Delhi or through ECS into an account to be designated by it.

3.3 Timely payment of License fee is the essence of this Agreement. The **Licensee** shall have to make the payment within 15 days of it becoming due. In the event of default in payment, the Licensee shall be liable to pay interest @ 18% per annum on the unpaid License fee for the outstanding period.

4.0 SECURITY DEPOSIT

4.1 **Licensee** shall pay to the Licensor an interest free refundable Security Deposit, equivalent to the amount of the License fee payable for the first year at the time of execution of this Agreement.

4.2 The said Security Deposit shall be refunded by the Licensor to the Licensee upon the termination or expiry of this Agreement after making adjustments for any amounts due from the **Licensee**.

5. OBLIGATIONS OF THE LICENSOR

The Licensor shall:

- a. allow the Licensee to carry out installation of transmitter, its associated equipment and integration of CTI, for minimum eight continuous hours each day subject to programme exigencies.
- b. allow Licensee or system integrator on its behalf to carry out civil works which do not interfere with Licensor's transmission facilities subject to security norms.
- c. maintain and repair the tower aperture (owned by Licensor) from time to time at its own cost in order to ensure that the tower aperture is in a proper condition and fit for the purpose intended during the term.
- d. carry out major repairs of licensed building at its own cost (wherever applicable).
- e. provide any required No objection Certificate related to licensed infrastructure after all deposits/license fee are paid to it.

6. OBLIGATIONS OF THE LICENSEE

6.1 The Licensee shall:

- a.
 - (i) not object in any manner to the Licensor which is running its broadcasting services (Including IGNOU) by using CTI and the Licensor shall not pay any charges for usage of the same including initial costs and recurring costs wherever RF chain of Licensor is required to be combined.
 - (ii) Keep provisions, while creating CTI, to meet the future requirements of Licensor for increasing the power of its FM transmitter(s) and/or adding a new channel /transmitter using CTI chain, at no cost to Licensor, including the initial and recurring costs. List of Stations where provisions are to be made is enclosed.
 - (iii) Not object to Licensor's right to join CTI for future requirement of it's broadcast services, at Licensor's cost.
- b. use the infrastructure given on license basis to it exclusively by itself and only for the purpose for which the Agreement has been signed. Such use shall not be permitted to any third party who is not a signatory to this agreement.
- c. obtain prior written consent of the Licensor to carry out:
 - i. Maintenance or repair of Antenna/RF Cable/ASF* /Combiner* (* strikeout wherever not applicable).
 - ii. Any Additional Construction.
- d. obtain all permissions as may be required from local bodies for construction/ modification and pay all fees/dues/taxes/charges etc. for the same.
- e. make its own provision for getting power supply from the appropriate authority and pay initial cost and subsequent electricity bills from time to time.
- f. comply at all times with all applicable laws, rules and regulations including the technical parameters and standards for transmission.
- g. maintain at its own cost the building constructed on the land licensed to it and fixtures attached to it.
- h. will upkeep and maintained the CTI infrastructure on priority. In case of any technical exigency, same will have to be got rectified on their own cost.
- i. provide necessary RF filters in the RF chain, for removing the interference/ intermods if any observed on account of Licensee's transmission in AIR/DD/ IGNOU services to the entire satisfaction of the Licensor.
- j. remove its superstructure and fixtures at its own costs and re-deliver the possession of the Licensed infrastructure in proper condition to the Licensor on the termination/expiry of this agreement.
- k. *declare the Power rating of it's transmitter to be installed in accordance to ERP stipulations of Phase III policy of Govt. of India before commissioning of CTI. Licensee will not be allowed to increase power of transmitter further.*
- l. ensure that the coverage of Licensor's transmitter(s) is not adversely affected vis-a-vis the existing coverage(s) in consequence to the installation of CTI. Licensee shall carry out field strength survey of Licensor's transmitter(s), at no cost to Licensor, in the presence of its

representative and the System Integrator before and after the installation of CTI and submit a report to Licensor.

- m. pay such additional and/or enhanced taxes as may be levied by the concerned local body/municipality in the city on account of any infrastructure constructed for the purpose of CTI within the Licensor's premises. Such liability to pay the additional taxes shall be equally shared by all the Licensees.
- n. be solely responsible, at all times, for the safety and security of its equipment and personnel (whether employees, agents or others) within Licensor's premises and hold the Licensor immune and indemnified against all such claim(s) for compensation for any loss or damage(s) as may be raised by such employees/representatives/agents or any person(s) having dealings with it or by any other third party. This clause shall survive the terminations or expiration of this Agreement.
- o. submit to the Licensor for vetting and approval the schematic drawings and specifications in context to all equipment required to be procured, including transmitter and allied equipment, antenna, RF cable, combiner etc. for setting up the CTI, so as to ensure that they are in compliance and conformity with the broadcasting standards and approved ERP stipulations, before initiating the procurement process.
- p. ensure that the creation of CTI and construction of building does not cause any damage to Licensor's infrastructure. Any damage to the facilities/ infrastructure of the Licensor shall be made good by the Licensee at its own cost.

6.2 The Parties agree that the membership of the Consortium shall not derogate, diminish, dilute or in any manner affect the responsibility and liability of the Licensee in its individual capacity, in reference to the terms and conditions of this present agreement, including any other agreements that may be entered into between the Licensor and Licensee.

7. IT IS AGREED BY BOTH THE PARTIES THAT:

- 7.1 All CTI equipment wherever combined with licensor's RF chain shall have a lock in period which shall commence from the date of the execution of this agreement and remain valid for a period up to fifteen years from the date of operationalization.
- 7.2 The Licensor shall not be liable for any loss that may be suffered by the Licensee on account of delay in the installation/integration/ operationalization of any equipment.
- 7.3 The Licensee shall be solely responsible for the safety and security of its equipment and personnel (whether employees, agents or others) within the Licensor's premises at all times and the Licensor shall not be liable under any circumstance for payment of any losses or damages in respect of any claim raised by any employee or representative of the Licensee or any person having dealings with the Licensee.
- 7.4 That licensor will allow the peaceful and quiet use of the licensed infrastructure to the licensee for the term of this agreement. However, in the event of an emergent or technical necessity, the Licensor shall have the right to disallow the use of licensed infrastructure to the Licensee. The Licensor shall inform the Licensee about the emergent and technical necessity in advance, to the extent possible. However the Licensor shall not be liable to pay any penalty or damages for any such non-provision. The decision of the Licensor in this regard shall be final. The Licensee shall continue to be liable to pay Annual License fee to Licensor for the period during which it is not allowed to use LI.

- 7.5 The permission granted by this agreement constitutes a bare license to use and no right, title or interest in the Licensed infrastructure is transferred thereby to the Licensee. The ingress to and egress from the Licensed infrastructure shall remain in the ultimate control of the Licensor.
- 7.6 The Licensor and/or any of its employees shall have the right to inspect the on site broadcasting infrastructure such as Transmitters and allied equipment in the complex.
- 7.7 In the event the Licensee does not remove its effects except as provided in para 7.1 from the site on the termination of this agreement, Licensee shall be liable to pay damages quantified at five times the annual rent per sq. mtr. on pro-rata basis.
- 7.8 In case the common Antenna is also used by the Licensor and/or Antenna Switch Frame (ASF) Panel is located along with the Licensee's equipment, ASF Panel will be segregated and a see-through partition will be put with an access door from outside, with a provision that the combined RF output of AIR / IGNOU coming from existing FM transmitter building can be directly patched to Antenna Switch Frame. A nodal representative of the licensee shall be identified for coordination with the Licensor/ its representative to attend faults in CTI shared with Licensor.
- 7.9 The Licensor shall have the right to direct a shut down or operations at reduced power. The requirement of shut down or reduced power operation of services as may be required for repair/replacement works shall be decided on case to case basis by Licensor in consultation with Licensee.
- 7.10 The stamp duty and expenses on registration of this agreement shall be borne by the Licensee.

8.0 SECURITY AND SAFETY

- 8.1 Licensor's premises and installations at the station(s) are Secure and Prohibited Areas and therefore, a separate entry gate except fire exit gate through the Security Fencing is prohibited. Licensee shall normally be required to use only the main entry gate to enter or exit the LI premises.
- 8.2 Licensee and its authorized staff shall, at all times, strictly adhere to the security norms prescribed by Licensor, including carrying on their person the Photo Identity Security Pass issued by the concerned station of the Licensor. Licensee shall be solely responsible for obtaining Police Verification Report in respect of each of its authorized staff member and shall provide the same to the Security Officer of the concerned station without which security identity pass shall not be issued. In the event that the Licensee has employees who are foreign nationals, such personnel shall be subject to security clearance in terms of the Government of India rules and regulations on the subject.
- 8.3 Licensee shall provide/install 'Fire Fighting' equipment, including the Fire Alarms and shall clearly indicate 'Escape/Exit Route' markings at prominent places, in the CTI and transmitter areas as per the recommendations of local Fire Office. Licensee shall also get the said installations inspected and obtain a Clearance Certificate in respect thereof from the Local Fire Office prior to commissioning of its FM radio broadcast transmission(s). Licensee shall provide a copy of the said Clearance Certificate to Licensor's representative at the concerned station.

9.0 FORCE MAJEURE

If at any time during the subsistence of this Agreement, the performance of any obligation by either party is prevented or hindered either in whole or in part due to the reasons of hostility, war, war-risk, civil commotion, sabotage, fire, floods, earthquake, acts of state, explosion, epidemic, quarantine restriction, strikes, act of the God, natural disaster or any other reason beyond the control of either party (all or any of these events, hereinafter, shall be referred to as "**Force Majeure Event**"), neither party will have any claim to damages against the other in respect of such non-performance or delay in performance or any damage so caused, provided the information about such Force Majeure Events is given by the affected party to the unaffected party promptly.

Either party shall also promptly notify the other party of any proposal for overcoming the consequences of Force Majeure Event but shall not carry out or implement such proposals without the prior consent of the other Party.

10.0 INDEMNITY

Licensee hereby agrees to promptly and fully indemnify and keep Licensor indemnified and immune from and against all expenses, damages, claims, suits, actions, judgments, costs, proceedings, prosecutions, orders of attachments etc. arising out of any negligence or breach of this agreement by Licensee/its employees for any act of omission or commission on its part or by its staff during the subsistence of this Agreement.

This clause shall survive till the termination or expiry of this Agreement.

11.0 CONFIDENTIALITY RESTRICTIONS

Licensee/its employees shall not disclose or communicate to any other party or persons any confidential information including site layouts plans and any other details of the Licensor's installation that may have been received or obtained or come within its knowledge in any manner or through any source whatsoever, during the subsistence of this Agreement. The Licensee hereby undertakes and covenants that it shall strictly abide by the principles of confidentiality.

12.0 TERMINATION

12.1 This Agreement shall stand automatically terminated without any notice if:

- i. The Grant of Permission Agreement (GOPA) executed by Licensee with Ministry of I&B is revoked; or
- ii. The SACFA clearance and/or Frequency Authorization issued by WPC wing of Ministry of Communication & IT in favor of Licensee is either revoked or its validity expires.

Licensee will communicate information pertains to (i) and (ii) above to **Licensor** immediately after such occurrence.

12.2 Licensor shall have the right to terminate this Agreement in the event of breach of any of the terms and conditions of this Agreement by the Licensee. In the event of a breach of terms of this agreement by Licensee, Licensor shall give a 45 (Forty Five) days written notice to

Licensee to rectify the breach. In the event the breach is not rectified, the Licensor shall entitled to terminate this Agreement forthwith and to forfeit the security deposit and balance advance Annual License fee if any.

12.3 The Licensee may terminate this agreement any time after giving an advance notice of 6 months in writing to the Licensor or by paying to the Licensor an amount equivalent to six months License fee in lieu of the notice.

12.4 Immediately upon the termination of the Agreement, Licensee shall stop the use of LI including the Common Area and CTI permitted under this Agreement and surrender all photo identity security passes issued to it, to the concerned station of the Licensor with intimation to the AIR Resources Division.

13.0 AMENDMENT TO THE AGREEMENT

This Agreement reflects the complete understanding between the Parties and shall not be changed or modified except by written instrument duly signed by the parties to the Agreement.

14.0 ARBITRATION

Any dispute or difference arising from this AGREEMENT shall be endeavoured to be settled in the first instance through mutual consultations to be held between the parties to the AGREEMENT. In case, the difference or dispute cannot be settled through such consultations, then the same shall be settled finally by arbitration under the provisions of the Arbitration and Conciliation Act, 1996. It is agreed that the Arbitration shall be conducted at Delhi by a sole arbitrator to be nominated by the **Chief Executive Officer**, Prasar Bharati and the award so rendered shall be final and binding on both the Parties.

15.0 JURISDICTION

The Courts at Delhi shall have the exclusive jurisdiction to try all the dispute(s)/difference(s)/ controversy(s) or claims between the Parties to this Agreement.

IN WITNESS WHEREOF the Parties hereto have herein set their hands to this Agreement on this day, month and year first above written.

SIGNED, SEALED AND DELIVERED BY

For & on behalf of
Prasar Bharati (Licensor)

For & on behalf of Licensee
[Executed in pursuance of Board
Resolution dated:

In the presence of :

1. SIGNATURE
NAME
DESIGNATION

2. SIGNATURE
NAME
DESIGNATION

SCHEDULE-'A'

Name of the Station Site:

Name of the Licensee:

| Sl. No. | LICENSED INFRASTRUCTURE | LICENSE FEE RATE (per annum) | QUANTITY | TOTAL LICENSE FEE (per annum) |
|---------|--|------------------------------|----------|-------------------------------|
| 1 | # Tower Aperture | | | |
| 2 | ## Open Space*** | | * | ** |
| 3 | ## Covered Space | | * | ** |
| 4 | Other Miscellaneous Common Facilities **** | | LS | |
| 5 | Service Tax & other taxes (as per actual) | | | |
| | TOTAL (1+2+3+4+5) | | | |

Annual license fee for tower aperture shall be (Per Broadcaster per anum)

| | |
|------------------------|-------------------|
| Delhi (Pitampura site) | Rs 34.46277 lakhs |
| A+ | Rs 21.29 lakhs |
| A | Rs 11.62 lakhs |
| B | Rs 7.09 lakhs |
| C | Rs 5.32 lakhs |
| D | Rs 2.83 lakhs |

Annual license fee for open and covered space shall be (per sq. mtr., Per Broadcaster, per anum)

| | Open Space | Covered Space |
|--------------------------------------|-------------|---------------|
| DDK Delhi, DDK Chennai, Kolkata site | Rs 11,028/- | - |
| A+ | Rs 10,307/- | Rs 12,240/- |
| A | Rs 8,375/- | Rs 10,307/- |
| B | Rs 4,832/- | Rs 6,280/- |
| C | Rs 2,705/- | Rs 4,155/- |
| D | Rs 2,030/- | Rs 3,479/- |

* These figures are tentative and subject to change after final measurement of CTI area.

** The Annual License fee/ Security Deposit are adjustable subject to final measurement of CTI area.

*** The Proportionate open area rates will be applicable when vertical extension in LI is permitted.

**** The Annual License fee for the Other Miscellaneous common facilities shall be (Per Broadcaster per anum) :

| | |
|---------------------|---------------|
| For A+ class cities | Rs 5 Lakhs |
| For A class cities | Rs 4 Lakhs |
| For B class cities | Rs 3 Lakhs |
| For C class cities | Rs 2 Lakhs |
| For D class cities | Rs 1,46,410/- |