

**(On Stamp Paper of Rs.100/-)**

**AGREEMENT**

THIS **AGREEMENT** is made at New Delhi on this ..... Day of .....2022 between **PRASAR BHARATI (Broadcasting Corporation of India)**, a body corporate established under the **Prasar Bharati (Broadcasting Corporation of India) Act 1990**, having its office at Doordarshan Bhawan, Copernicus Marg, New Delhi - 110001, hereinafter referred to as "Prasar Bharati" (which expression shall include its successors, assigns etc)

**AND**

..... a Company incorporated under the Companies Act, 1956 and having its Registered/ Head Office at ..... hereinafter referred to as the "Channel Provider" (which expression shall include its successors and assigns).

WHEREAS Prasar Bharati is running a Direct to Home service (DTH) by the name of "DD Free Dish"

AND WHEREAS the Channel Provider is owning/operating/distributing a TV channel namely ..... (Name of channel)

AND WHEREAS Prasar Bharati has adopted the MPEG-4 compression technology for certain channel slots on DD Free Dish.

AND WHEREAS as per policy Guidelines issued by Prasar Bharati the same invitational Reserve Price has been fixed for e-auction of vacant MPEG-4 slots irrespective of the genre(language), to promote the DD Free Dish authorized Set Top Boxes (STBs).

AND WHEREAS Prasar Bharati has empanelled 09 Original Equipment Manufacturer's for providing the DD authorized STBs which are being seeded in the market.

AND WHEREAS in an e-auction held by Prasar Bharati for filling up MPEG-4 slots on DD Free Dish, a bid submitted by the Channel Provider for an MPEG-4 slot for carriage of its channel \_\_\_\_\_ was successful.

AND WHEREAS the Channel Provider is aware that it shall be responsible for notifying viewers of the need to use the Prasar Bharati authorized STBs and that Prasar Bharati has the right to restrict access of MPEG-4 signals to unauthorized STBs at any point of time.

AND WHEREAS it has been agreed between the parties that Prasar Bharati shall carry the channel \_\_\_\_\_ on DD Free Dish on the terms and conditions appearing hereinafter:

NOW, THEREFORE, THIS AGREEMENT WITNESSETH AND IT IS AGREED BY BOTH THE PARTIES AS UNDER

**1. RIGHTS**

The Channel Provider hereby grants to Prasar Bharti the right to carry the channel \_\_\_\_\_ (name of channel) on DD Free Dish during the term. For that purpose Prasar Bharti shall have the right to down link the signals of the channel, bunch the channel with the other channels on its DTH Bouquet and uplink the signals to the satellite used by it. The signals from the satellite would be receivable by dish antenna and set top box as required to receive the said signals.

2. **Set-top-Box (STB)**

- 2.1. The channel provider shall notify viewers of the need to use the DD authorized STBs.
- 2.2. Prasar Bharati reserves all rights to restrict access of MPEG-4 signals to unauthorized STBs at any point of time.

3. **TERM**

- 3.1 The term of this agreement shall be one year only, commencing from ..... and expiring on ..... ..
- 3.2 There shall be no extension or renewal of this Agreement. However, subject to the Channel Provider fulfilling the eligibility criteria, it can apply for a fresh allotment of a slot for the carriage of its channel \_\_\_\_\_ (name of channel) and participate in the bidding process for allotment of the slot. Any allotment of slot pursuant to the said process shall be a fresh allotment governed by a separate agreement.

4. **Territory**

The Rights granted by this agreement are for the territory of India, subject to natural and incidental overspill.

5. **Carriage Fee**

- 5.1 In consideration of the carriage of its Channel by Prasar Bharati on "DD Free Dish" during the term, the Channel Provider shall pay to Prasar Bharati Annual Carriage Fee (Successful Bid Amount) amounting to

Rs. \_\_\_\_\_, (rupees .....)

exclusive of all taxes. The letter of allotment is Annexed as Annexure-1

- 5.2 The Channel Provider shall make the payment as per payment schedule given below:

<b>S. N</b>	<b>Description</b>	<b>Amount in Rs.</b>
1.	1st Instalment in advance before placement of channel on DD Free Dish or within one month from date of winning of bid whichever is earlier.	10% of (Total Bid price – Participation Fee) + applicable GST for 1st instalment and applicable GST for Participation fee
2.	2nd Instalment in advance on or before 27.04.2022	10% of (Total Bid price – Participation Fee) + applicable GST
3.	Subsequent monthly Instalments in advance on or before the 27 <sup>th</sup> of each month till the 10th instalment	10% of (Total Bid price – Participation Fee)+ applicable GST every month
4	Participation fee deposited at the time of e-auction shall be adjusted in the 11th and final instalment of the carriage fee/bid amount.	

The Payment Schedule of the channel ..... (Name of channel) is annexed as Annexure-2.

- 5.3 In case any instalment is not paid by the scheduled dates, a notice to this effect shall be issued to the Channel Provider to deposit the payment due along with penalty as mentioned in the clause 4.4 within seven days.
- 5.4 A interest @ 14.5% per annum shall be charged from the due date of payment. The interest shall be charged for the entire month for a payment default of seven days or part thereof.
- 5.5 In case the instalment due along with the interest is not paid within seven days from its scheduled due date, the Participation Fee along with any instalment already deposited by the Broadcaster/Channel till that date, will be forfeited and the channel will be discontinued from DD Free Dish Platform

without any further notice and the channel will have no right to be carried on DD Free Dish on vacated slot.

- 5.6 In case the Channel Provider fails to place its channel on its allocated slot within one month of the allotment commencement date, the allotment shall stand cancelled automatically and the Participation Fee along with any instalment already deposited shall be forfeited
- 5.7 In case the Channel Provider withdraws his channel prematurely or terminates the contract prematurely the Participation Fee shall be forfeited along with any instalment already deposited
- 5.8 The Channel Provider acknowledges that non placement of the channel on the platform/premature withdrawal/discontinuation of the channel/premature termination of the contract shall cause losses to Prasar Bharati and the amount of the participation fee along with any instalment already deposited is a genuine and agreed pre-estimate of such loss
- 5.9 The vacated slot will be made available for re-auction.
- 5.10 All taxes including all and any GST, VAT, works contract taxes, customs duties, excise duties, entertainment taxes and any other taxes of whatever description shall be payable separately by the Channel Provider at the applicable rates over and above the Carriage fee amount to Prasar Bharati.

## 6. **Warranties and Representations**

The Channel Provider warrants and represents that

- a. its channel is duly registered under the Government of India's Downlinking Guidelines/Uplinking Guidelines dated 05.12.2011.
- b. it shall programme and broadcast the channel by means of high quality digital free to air signal for reception in the **Territory** at its own cost and shall be responsible for maintaining the quality of its feed and Prasar Bharati shall not be responsible for the quality of broadcast in case of poor quality of feed.

- c. The transmission of the channel shall be twenty four (24) hours a day and seven days a week, subject to reasons beyond its control including force majeure as defined herein.
- d. It shall comply with such technical requirements as Prasar Bharati may prescribe from time to time.
- e. It agrees to notify its viewers of the need to use the DD authorized STBs, as DD Free Dish may restrict access of MPEG-4 signals to unauthorized STBs at any point of time.
- f. It shall have no objection to access of MPEG-4 signals to unauthorized STB's being restricted by Prasar Bharati at any point of time.
- g. It shall be responsible for obtaining and maintaining at its own cost all licenses, clearances, consents, etc required to broadcast the Channel throughout the Territory and shall ensure compliance with all terms, regulations, guidelines imposed on Channel Provider by all Regulatory bodies.
- h. It shall not violate/infringe/contravene any Trademark, Design, Copyright, Patent, Trade secret, confidentiality or other Intellectual Property rights of any other person. In case of violation, passing off or infringement of any Intellectual Property Right, the Channel Provider shall alone be responsible and/or liable.
- i. It shall be responsible for the programming and other content of the said channel and ensure that the same is not in violation of any law in force in India.

**7. Promotion**

"The channel provider" shall at its own cost provide to Prasar Bharati such information, material and trigger signals as Prasar Bharti may require from

time to time, enabling Prasar Bharti to promote the DD Free Dish Service. For the purposes of marketing and promotion of DD Free Dish Service, Prasar Bharati shall have the right throughout the term to use all trade and service mark used in connection with or associated with the channel or any material included in the Channel. Prasar Bharati shall not be liable for any action, claim, charge, compensation or cost of any dispute in respect of any such trade or service mark between the Channel Provider or any other person.

8. It is agreed that for all intents and purposes the Channel Provider shall be deemed to be the broadcaster of the Channel and shall be responsible/ liable for all consequences flowing from its broadcast. The Channel Provider shall be solely responsible and liable for all claims with regard to the broadcast and content of the channel. In case of any action against Prasar Bharti in that regard or imposition of any cost of any nature, the Channel Provider shall compensate/reimburse Prasar Bharti for the same.

9. **Indemnification**

"The Channel Provider" hereby agrees to fully indemnify Prasar Bharati from and against all claims, damages, liabilities, prosecutions, costs and expenses (including reasonable legal fees and related costs) arising directly or indirectly out of any breach or non performance by it of any or all of its undertakings, representations, warranties or obligations hereunder or infringement of any commercial or intellectual property rights of any nature whatsoever of any third party, as a result of the carriage of the channel on DD Free Dish or the use of the Channel Provider's trade marks / service marks, information, material and trigger signals , etc in accordance with this Agreement.

10. **Termination**

This Agreement may be terminated at any time by:

- a. Either party if the other party commits material breach of the terms of this agreement which remains unremedied despite service of 21 days notice to remedy the breach;
  - b. By Prasar Bharati, without assigning any reason, after giving 21 days notice in writing. However in such an event Prasar Bharati shall be liable to refund the balance portion of the Carriage fee.
  - c. Prasar Bharati Board reserves the right to suspend the agreement in case of violation of the terms of agreement and/or non payment of dues and also to review the auction policy/ terms & conditions during the agreement period.
11. This agreement shall stand terminated automatically if the Channel Provider discontinues its Channel or the requisite permissions for the telecast of the Channel are suspended/cancelled/withdrawn. In such an event the Channel Provider shall not be entitled to refund of the carriage fee paid or any part thereof and the participation fee along with any instalment already deposited shall stand forfeited.

**12. Governing Law and Jurisdiction**

This agreement shall be governed by and constructed in accordance with the laws of India. The Courts at New Delhi shall have exclusive jurisdiction in respect of all disputes.

**13. Arbitration**

All dispute and differences arising from this agreement or any matter connected therewith or touching the same shall be referred to a Sole Arbitrator to be appointed by the Chief Executive Officer of Prasar Bharti. The Sole Arbitrator shall be a retired judge of the Supreme Court of India or any High Court. The Arbitration proceedings shall be governed by the provisions of the Arbitration and Conciliation Act, 1996 as amended from time to time. Both parties shall contribute equally towards the fee of the arbitrator. The venue of Arbitration shall be Delhi.



**14. Miscellaneous**

This agreement sets out all matters agreed between the parties. The terms of this agreement can only be altered and/ or modified by a written Agreement executed by the parties.

**15. Notices**

All notices shall be in writing and shall be deemed to have been served if sent by registered mail to the addresses set out in the recitals to this agreement or the fax numbers set out hereunder.

..... (e-mail)

..... (Fax No.)

**16. Force Majeure**

Neither party shall be liable for its inability or delay in performing any of its obligations hereunder if such inability or delay is caused by circumstances beyond its reasonable control including but not limited to inability or delay caused through accident, fire, explosion, casualty, epidemic, act of God, strike, lockout, labour condition, unavailability of material, service, transportation, power of other commodity, delay of common carrier, civil disturbance, riot, war, or armed conflict (whether or not there has been an official declaration of war), inclement weather, transmission and/ or satellite or transponder failure or degradation, signal interference caused by transmission via any adjacent satellite failure or degradation of terrestrial facilities for satellite uplink services, decision of any court or other body of competent jurisdiction (including any competent regulatory authority), the enactment of law, the issuance of any executive or judicial Order or decree

17. It is hereby agreed that under no circumstances whatsoever shall Prasar Bharati be liable to pay any amount whether by way of damages/ compensation or under any other head to the Channel Provider for any act, inaction, omission of any nature whatsoever in connection with or arising from this agreement including failure to carry the channel or as a consequence of Force Majeure as illustrated above.

IN WITNESS WHEREOF the parties have put their hands on day and year first herein above written

For and on behalf of  
PRASAR BHARTI

For and on behalf of  
CHANNEL PROVIDER

Witnesses:

1.

2.