

**GRANT OF PERMISSION AGREEMENT**

**BETWEEN**

**MINISTRY OF INFORMATION & BROADCASTING**

**GOVT. OF INDIA**

**AND**

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**FOR**

**OPERATING FM RADIO BROADCASTING SERVICE IN PHASE-III**

**ON MIGRATION FROM PHASE-II**

**AT**

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## GRANT OF PERMISSION AGREEMENT

This Agreement is made on this \_\_\_\_ day of \_\_\_\_\_, 2015 between the **President of India** acting through \_\_\_\_\_, Ministry of Information and Broadcasting, Government of India, Shastri Bhawan, New Delhi (hereinafter called the **Grantor**) on the One part and M/s \_\_\_\_\_, a company registered in India under the Companies Act, 2013 or under the previous Companies Act, 1956 and having its registered office at \_\_\_\_\_ (hereinafter called the **Permission Holder** which expression shall unless repugnant to the context include, its successors in business, administrators, liquidators and assigns or legal representatives) of the Other part.

WHEREAS pursuant to exercise of option by Phase-II Licensee (now referred to as the **Permission Holder**) to migrate to Phase – III policy regime the fulfillment of the obligations prescribed in the Phase- III Policy notified on 25.07.2011 and those communicated on 21.01.2015 vide amended paragraph 31 of Phase-III Policy of the Ministry of Information & Broadcasting, the **Grantor** has agreed to grant permission to the Permission Holder, on terms & conditions appearing hereinafter to maintain and operate FM radio broadcasting channel at \_\_\_\_\_ (“**Channel**”) falling in category ..... and the Permission Holder has agreed to accept the same.

### **NOW THIS AGREEMENT WITNESSETH AS UNDER:**

1. Unless otherwise mentioned in the subject or context appearing hereinafter, in this Agreement, words and expressions shall, unless the context otherwise requires, have the same meaning as is respectively assigned to them herein under:

1.1 “**Applicable Systems**” shall mean all the necessary equipment/systems engineered to provide Broadcast Services as per operational/technical and quality requirements and other terms and conditions of the Grant of Permission Agreement.

1.2 “**Broadcast Channel**” shall mean the isolated program path of the Permission Holder including VHF FM Band (87-108 MHz) Broadcast frequency, as assigned by the Wireless Operational License distributed geographically to minimize channel interference.

1.3 “**Broadcast Equipment**” shall mean any equipment used for production, storage and transmission of programs by the Permission Holder.

1.4 “**Broadcast Service**” shall mean the audio broadcast by FM radio channels including entertainment, education and information dissemination on the main carrier including news bulletins of All India Radio in exactly the same format (unaltered) on such terms and conditions as may be mutually agreed with Prasar Bharati. No other news and current affairs programs are permitted.

1.5 “**Channel Identity**” shall mean the brand name of the FM channel as approved by the Grantor.

1.6 “**Height of Antenna above Average Terrain (HAAT)**” is the height of the center of radiation of the antenna above average elevation of the terrain between 3 and 15 Km from the antenna for each radial.

1.7 “**Effective Height of Antenna above Average Terrain (EHAAT)**” is the average of HAATs for 8 radials spaced every 45 degree of azimuth starting with true north.

1.8 “**Effective Radiated Power (ERP)**” is the product of the transmitter output power and Antenna Gain relative to half wave dipole.

1.9 “**Frequency Assignment**” shall mean the specific Radio Frequency (RF) carrier with associated technical parameters such as RF power, bandwidth etc. to the particular FM channel as assigned by the Department of Telecommunication, Ministry of Communications &IT, Government of India.

1.10 “**Grant of Permission Agreement**” or “**The Agreement**” shall mean this Agreement with all amendments/modifications thereto.

1.11 “**Outsourcing**” will mean any agreement or arrangement by the Permission Holder, by which production work in respect of programme content and/or advertisements related to that programme are allocated to any other company or agency or any other entity.

1.12 “**Permission**” shall mean the permission for setting up the FM Radio Channel, as granted by the Grantor to the Permission Holder in pursuance of this agreement.

1.13 “**Program Content**” shall mean the broadcast presentations made in the FM Channel of the Permission Holder.

1.14 “**Public Interest Announcement**” shall mean any announcement in public interest or for public safety as provided by the Central Government or the State Government concerned.

1.15 “**SACFA**” shall mean the “Standing Advisory Committee on Radio Frequency Allocation” of the Wireless & Planning Co-ordination wing of Ministry of Communications &IT, Government of India.

1.16 All words and expressions not defined here and defined in the Notice Inviting Applications (NIA) dated 02.03.2015 along with amendment(s) shall mean accordingly.

2. In consideration of the observance of the covenants as well as payment of the Non-Refundable One Time Migration Fee (NOTMF), as per amended paragraph 31 of Phase-III Policy dated 21.01.2015, and the Annual Fee as payable in terms of this Agreement and subject to due performance of and compliance with all terms and conditions of this agreement hereto on the part of the Permission Holder, the Grantor hereby grants on non-exclusive basis for a period of fifteen (15) years, the permission to establish, maintain and operate the FM Radio Broadcasting Channel for the City of \_\_\_\_\_ with effect from 1<sup>st</sup> April, 2015.

3. **Non-Refundable One Time Entry Fee, Annual Fee and Schedule of Payments:-**

3.1 (a) Subject to the provision contained in sub-Clause (b), the Permission Holder shall pay an Annual Fee to the Grantor every year, charged @ 4% of Gross Revenue of its FM radio channel for the financial year or Rs. \_\_\_\_\_ i.e. 2.5% of the NOTEF for the city, whichever is higher.

(b) The Permission Holders in the States of North East (i.e. Arunachal Pradesh, Assam, Meghalaya, Manipur, Mizoram, Nagaland, Sikkim and Tripura) and Jammu & Kashmir and Island territories (i.e. Andaman & Nicobar Islands and Lakshadweep) shall pay an Annual Fee to the Grantor charged @ 2% of Gross

Revenue for each year or 1.25% of NOTEF for the city , whichever is higher, for an initial period of three years from the date from which the annual license fee becomes payable and the permission period of 15 years begins.

- 3.2 Gross Revenue for this purpose would be the gross inflow of cash, receivables or other consideration arising in the course of ordinary activities of the FM radio broadcasting enterprise from rendering of services and from use by others of the enterprise resources yielding rent, interest, dividend, royalties, commissions etc. Gross Revenue shall, therefore, be calculated, without deduction of taxes and agency commission, on the basis of billing rates, net of discounts to advertisers. Barter advertising contracts shall also be included in the gross revenues on the basis of relevant billing rates. In the case of a permission holder providing or receiving goods and services from other companies that are owned or controlled by the owners of the permission holder, all such transactions shall be valued at normal commercial rates and included in the profit and loss account of the permission holder to calculate its gross revenue.
- 3.3 Annual fee shall be paid in advance on quarterly basis in four equal installments within the first fortnight of each quarter of a financial year. For this purpose, four quarters shall be tri- monthly periods beginning 1<sup>st</sup> April, 1<sup>st</sup> July, 1<sup>st</sup> October and 1<sup>st</sup> January respectively.
- 3.4 The first year's fee i.e for 2015-16 shall become payable in one lump sum within 15 days of signing of this Agreement on the basis of the gross revenue for the previous financial year or the last year for which the gross revenue has been determined or the NOTEF formula, whichever is higher.
- 3.5 Once the final fee for the financial year is determined on the basis of actual gross revenue, as given in Clause 3.1, and is found to be higher than the prescribed percentage of the NOTEF the Permission Holder shall pay the balance in one lump sum within a period of one month from the date of such determination, and in any case not later than 30<sup>th</sup>September of the following financial year.
- 3.6 From the second year onwards, the Permission Holder shall pay advance annual fee on the basis of the last year for which gross revenue has been determined, or minimum prescribed % of the NOTEF, whichever is higher, within the first fortnight of each quarter, and balance due of final annual fee, if any, by 30<sup>th</sup> September of the following financial year. Any delay on the part of the permission holder to pay the quarterly fee, or the balance due of the final annual fee, determined on the basis of the gross revenue figure, will attract simple interest @ 1% per month for the period of such delay.

The delay for quarterly fee under clause 3.6 shall be counted from the 1<sup>st</sup> date of each quarter if the quarterly fee is not paid within the first fortnight. The delay for the balance due of the final annual fee under clause 3.5 shall be counted from 1<sup>st</sup> October of the following year.

- 3.7 The Permission Holder shall have, prior to execution hereof, furnished a **Performance Bank Guarantee (in the format titled PBG** of NIA document-Annexure 10.14) in favour of the Grantor, for Rs. \_\_\_\_\_, i.e., for an amount equal to the annual fee calculated on the basis of NOTEF formula given in clause 3.1 (a) or (b) as applicable, and shall maintain its validity throughout the currency of the Permission. Amount of bank guarantee shall be increased so as

to be equal to the annual license fee paid by the permission holder for the previous year if such annual license fee exceeded the bank guarantee already furnished by the licensee. Permission holder shall furnish the additional PBG for the exceeded annual fee, in any case not later than 30<sup>th</sup> September of the following financial year. Any default in payment of determined annual fee shall be recoverable from the bank guarantee and if the amount due are more, the permission holder shall be asked to pay the balance due amount, within 15 days of being called upon to do so. The permission holder shall be liable to pay the Annual Fees within the prescribed time period, failing which the Grantor will have the right to invoke the Bank Guarantee furnished by the Permission Holder without any prior notice. Such right shall be without prejudice to any other action that may be taken by the Grantor under the terms and conditions of the Permission. In the event of invocation of the Permission Bank Guarantee, the Permission Holder shall furnish a fresh bank guarantee of the same amount within a period of three months from date of invocation of the Performance Bank Guarantee, in favour of the Grantor.

- 3.8 So as to verify that the Gross Revenue is correctly disclosed to it, the Government shall have the right to get the accounts of the channel audited by CAG or any other professional auditors at their discretion. In case of difference between the Gross Revenue determined by the Statutory Auditor of the Company and the government appointed auditors, the views of the government appointed auditor subject to opportunity of hearing to the Permission Holder shall prevail and the expenses of such audit shall be borne by the Permission Holder.

4. **Period of Permission:-**

- 4.1. The Permission shall be valid for a period of fifteen (15) years from the effective date as defined below. There shall be no extension and the Permission, unless cancelled or revoked earlier, shall automatically lapse and expire at the end of the aforesaid fifteen years' period and the Permission Holder shall thereafter have no rights whatsoever to continue to operate the Channel after the date of expiry of the Permission. Grantor at the appropriate time shall determine procedure for issue of fresh permissions.
- 4.2 The effective date of the Permission Period shall be reckoned from 1<sup>st</sup> April, 2015.
- 4.3 The permission shall be for free to air broadcasts on main carrier and data on sub-carriers.

5. **Co-location and Requirement to Provide FM Broadcasting:-**

- 5.1 It is mandatory for the Permission Holder to co-locate transmission facilities on existing Common Transmission Infrastructure (CTI) Tower in a city.
- 5.2 The Permission Holder shall be solely responsible for the installation and operation of necessary equipment and systems as well as attending to claims and damages arising out of his operation. The Permission Holder shall own the transmitter including program links.
- 5.3 In Delhi new CTI tower has to be constructed for the purpose of Co-location. The Permission Holder having operational channel at interim facilities in Delhi

shall shift to the co-location facility as soon as it is commissioned but not later than one month of the date of intimation of commissioning. For Delhi, the Permission Holder shall follow the additional instructions issued by Ministry of I & B from time to time.

5.4 The existing CTI towers at Chennai, Hyderabad, Jaipur, and Delhi (after commissioning) are maintained by BECIL.

5.5 In case of Cochin, CTI has not been constructed by BECIL, Prasar Bharati is not the LTI provider and the present C.T.I Tower at Trans Asia Corporate Park, Cochin will be available for utilization by the Permission Holder by mutual consent.

6. **Prohibition of Certain Activities**

6.1 Subject to the provisions contained in Clause 8.4, the Permission is non-transferable. The Permission Holder shall not be competent to grant a sub – Permission directly or indirectly

6.2 The Permission Holder may resort to outsourcing of content production as well as leasing of content development equipment as long as it does not impact the permission holder's right as FM broadcaster and enjoys complete control over the channel. However, the permission holder will be fully responsible for any violations/omissions of the provisions w.r.t. content as contained in Clause 10 and 11 here under in this regard.

6.3 The Permission Holder may hire or lease broadcasting equipments on long-term basis as long as it does not impact permission holder's right as FM Radio broadcaster and enjoys complete control over the channel. However, the permission holder will be fully responsible for any violation of the technical parameters as stipulated in Clause 12.

6.4 The permission holder shall not enter into any borrowing or lending arrangement with other Permission holders or entities except recognized financial institutions and its related entities (to say, its subsidiary or holding company, a company with the same management and an inter-connected undertaking), which may restrict its management or creative discretion to procure or broadcast content or its marketing rights.

6.5 The Permission Holder shall ensure that there is no linkage between a party from whom a programme is outsourced and an advertising agency.

6.6 The Permission Holder shall ensure that no content, messages, advertisement or communication, transmitted in its Broadcast Channel is objectionable, obscene, unauthorized or inconsistent with the laws of India.

6.7 The Permission Holder shall not either directly or indirectly assign or transfer its right in any manner whatsoever under this Agreement to any other party or enter into any Agreement for sub-Permission and/or partnership relating to any subject matter of the Permission to any third party either in whole or in part. Any violation of the terms shall be construed as breach of this Agreement.

6.8 The permission holder shall fix or modify the "Channel Identity", which is the brand name of the FM Radio Channel, only after prior approval of the Grantor.

7. **National Security and Other Conditions**

- 7.1 The Grantor shall have the right to temporarily suspend the Permission of the Permission holder in public interest or for national security for such period or periods as it may direct. The company shall immediately comply with any directives issued in this regard failing which the permission issued shall be revoked and the company disqualified to hold any such permission in future for a period of five years.
- 7.2 The company shall not use any equipment, which are identified as unlawful and/or render network security vulnerable.
- 7.3 The Permission Holder shall be required to obtain security clearance of all foreign personnel likely to be deployed for more than 60 days in a year by way of appointment, contract, consultancy, or in any other capacity for installation, maintenance, operation or any other services prior to their deployment.
- 7.4 The permission shall be subject to permission holder remaining security cleared throughout the currency of permission. In case the security clearance is withdrawn, the permission granted is liable to be terminated forthwith.
- 7.5 In the event of security clearance of any of the persons associated with the permission holder or foreign personnel is denied or withdrawn for any reasons whatsoever, the permission holder will ensure that the concerned person resigns or his services terminated forthwith after receiving such directives from the Government, failing which the permission granted shall be revoked and the company shall be disqualified to hold any such permission in future for a period of five years.
- 7.6 The Grantor reserves the right to modify at any time the terms and conditions of the Permission, if in its opinion it is necessary or expedient to do so in the interest of national security or public interest. The decision of the Grantor shall be final in this regard.

8. **Foreign Investment & other conditions pertaining to changes in Shareholding.**

- 8.1 The total direct and indirect foreign investment including portfolio and foreign direct investments into the company shall not exceed 26% after execution hereof and during the currency of license subject to the company migrating all its existing Phase II Permissions into FM Phase III. The methodology of calculation of the direct and indirect foreign investments would be as per the extant policy of the Government. The company will be required to disclose the status of such foreign holding and certify that the foreign investment is within the ceiling of 26% on a yearly basis. Approval of Foreign Investment Promotion Board (FIPB) shall be required for any existing or proposed foreign investment in the company.
- 8.2 If during the currency of the permission period, government policy on FDI/FII is modified, the permission holder shall be obliged to conform to the revised policy within a period of six months from the date of such notification, failing which it shall be treated as non-compliant of Grant of Permission Agreement, and liable for punitive action.
- 8.3 The permission holder shall make full disclosure, prior to execution hereof, of Shareholders Agreements, Loan Agreement and such other Agreements that are

finalized or are proposed to be entered into. Any subsequent changes in these would be disclosed to the Grantor, within 15 days of any changes, having a bearing on the foregoing Agreements.

- 8.4 (a) No permission holder, whether with or without foreign investment, shall be permitted to change the ownership pattern of the company through transfer of shares of the majority shareholders/promoters to any new shareholders without the written permission of the Grantor. The term majority shareholders/promoters shall be construed to mean the persons constituting the 'largest Indian shareholder' referred to in Para 2.5 of the FM Phase-III policy guidelines dated 25.07.2011.
- (b) The company holding permission may, with prior approval of the Grantor, be allowed to change the composition of the 'largest Indian shareholder' subject to the condition that the shareholding of the 'largest Indian shareholder' does not reduce below 51% till a period of three years from the date on which all the channels allotted to the company holding permission stand operationalised in Phase III.
- (c) The permission holder company may, with prior approval of the Grantor, dilute the total shareholding of the constituents of the 'largest Indian shareholder' of the company as it existed, prior to execution hereof, to a level below 51% only after a period of three years from the date on which all the channels allotted to the company holding permission stand operationalised in Phase III. This will be further subject to the condition that the revised ownership pattern has a 'largest Indian shareholder' with a legally binding agreement amongst its constituents in compliance of the prescribed eligibility conditions as mentioned in Para 2.5 of the FM Phase-III policy guidelines dated 25.07.2011 .
- (d) Any restructuring of the company/reorganization of FM Radio permissions between different holding companies/subsidiaries/inter-connected undertakings/companies with same management may be done only with prior approval of the Grantor. The Grantor may consider granting such a permission only once after the submission of the last bids till a period of three years from the date on which all the channels allotted to any of the company holding permission stand operationalised in Phase III undergoing restructuring, provided such a provision has not been availed of earlier. The new permission holding entities will have to conform to the prescribed eligibility criteria and will also be subject to the fulfillment of the following conditions:-
- i. The new company shall sign a fresh agreement with Grantor on identical terms and conditions (except for transferability of shares as provided herein) for the remaining period of licence of the original company.
  - ii. No new tax regime will be designed to provide any incentive to encourage creation of subsidiaries, merger/demerger, and amalgamation of FM Broadcasting companies.
  - iii. Any tax implication arising out of such mergers/demergers or amalgamation would be governed by the provisions of the Income Tax Act, 1961 as applicable from time to time.
  - iv. The processes /action taken by the licensee companies including for formation of new companies/subsidiaries/mergers/amalgamations and/or



disinvestment of undertakings or part thereof, of existing companies etc., need to be compliant with the Companies Act, 2013. The applicant shall not dilute such requirement through its Articles of Association or any Agreement.

**9 Cross Media Ownership**

If during the currency of the Permission period, government policy on cross-media ownership is announced, the Permission holder shall be obliged to conform to the revised guidelines, within a period of six months from the date of such notification, failing which it shall be treated as non-compliant of Grant of Permission Agreement, and liable for punitive action.

Provided however, in case the Permission Holder is not in a position to comply with cross media restrictions for bona fide reasons to the satisfaction of the Grantor, the Permission Holder would be given an option of furnishing one month's exit notice alongwith a compensation calculated on a pro rata basis of the NOTEF amount(s) for the remaining period of permission(s) held by the company.

**10. Programme Content**

10.1 The Permission Holder shall follow the same Programme and Advertisement codes as followed by All India Radio as amended from time to time or any other applicable code, which the Central Government may prescribe from time to time..

10.2 The Permission Holder shall also broadcast Public Interest Announcements as may be required by the Central Government/concerned State Government for maximum of one hour per day suitable/proportional time slots interspersed during that day shall be earmarked for this purpose. In case the total demand of Central Government and the State Government exceeds one hour per day, the concerned State Government shall be eligible for announcements covering only the period remaining after meeting the demand of the Central Government.

10.3 The Permission Holder shall ensure that at least fifty percent (50%) of the programmes broadcast by it are produced in India.

10.4 The Permission Holder shall be exclusively liable for the content broadcast and shall indemnify and keep the Grantor indemnified for any damage, loss or claim occasioned by the broadcast of any content by the Permission Holder

10.5 In case of multiple permissions to an entity/related entities in a city, the attempt should be to distinguish programming on each channel based on era of music, language of music, genre of music etc. to the extent possible to ensure diversity of programming to the listener.

**11. News and Current Affairs Programs:-**

11.1 The permission holder will be permitted to carry the news bulletins of All India Radio in exactly same format (unaltered) on such terms and conditions as may be mutually agreed with Prasar Bharati, No other news and current affairs programs are permitted under the policy (Phase-III).

11.2 The broadcast pertaining to the following categories will be treated as non-news and current affairs broadcast and will therefore be permissible:

- a. Information pertaining to sporting events, excluding live coverage. However live commentaries of sporting events of local nature may be permissible;
  - b. Information pertaining to Traffic and Weather;
  - c. Information pertaining to and coverage of cultural events, festivals;
  - d. Coverage of topics pertaining to examinations, results, admissions, career counseling;
  - e. Availability of employment opportunities;
  - f. Public announcements pertaining to civic amenities like electricity, water supply, natural calamities, health alerts etc. as provided by the local administration;
  - g. Such other categories not permitted at present, that may subsequently be specifically permitted by Grantor from time to time.
- 11.3 The permission holder shall be solely responsible for the authenticity and veracity of the information/announcements made by the radio jockeys of their channels. The permission holder shall be liable for punitive/disciplinary action by the Grantor in case any of the announcements/information broadcast in their channel is found false or violating the provision at Clause 11.1 & 11.2 above.

12. **Technical Parameters and standards:-**

- 12.1 The Permission Holder shall comply with the following technical parameters and standards both for transmission and audio quality of the service.

12.2 **Technical Parameters**

The transmission equipment including antenna are to conform to the following technical parameters:

- (a) ERP and EHAAT

Category	Basis (One or more of the following)	Effective Radiated Power (ERP) (kW)		Antenna Height (EHAAT) (Meters)	
		Min.	Max.	Min.	Max.
A+	Metro cities - Delhi Mumbai, Kolkata, Chennai	25	50	75 75	200 175
A	Population above 20 lakhs	10	30	75	150
B	Population above 10 lakhs and up to 20 lakhs	5	15	50	100
C	Population above 3 lakhs and up to 10 lakhs	3	10	30	75
D	Population above 1 lakh and up to 3 lakhs	1	3	20	40

[Note 1: For the purposes of this Clause the terms ERP and EHAAT shall mean the following:

- i. **“Height of Antenna Above Average Terrain (HAAT)”** is the height of the center of radiation of the antenna above average elevation of the terrain between 3 and 15 Kms. From the antenna for each radial.
- ii. **“Effective Height of Antenna Above Average Terrain (EHAAT)”** is the average of HAATs for 8radials spaced every 45 degree of azimuth starting with true north.
- iii. **“Effective Radiated Power (ERP)”** is the product of the transmitter output power and Antenna Gain relative to half wave dipole.

Note 2: In cases where:

- i. it may not be possible to remain within the prescribed limits of EHAAT due to topographical constraints or non-availability of a suitable tower meeting the prescribed values of EHAAT, or due to any security considerations that the Government may deem appropriate to factor in; or
- ii. the EHAAT/ERP needs to be fixed to take care of signal interference or security concerns or concerns relating to safety of flight in the vicinity,

the Permission Holder shall have to adjust the ERP of their transmitters so as to lay RF signal not exceeding that due to combination of maximum ERP and maximum EHAAT, as may be prescribed.]

Note 3: In case of interim set up, the LOI/Permission Holder shall, as far as practicable, adhere to the technical parameters for the respective cities. In case, it is not possible, it should ensure that the coverage from the interim set up is not less than 60% by area of the coverage of the permanent set up.

- b) Antenna Polarization : Circular
- c) Stereophonic Transmission System : Pilot-tone
- d) Pre-emphasis in transmission system : 50 micro-sec
- e) Maximum Deviation in transmission system: +/- 75 KHz.
- f) Harmonic/spurious : Should conform to the ITU-  
Radio regulation and relevant  
ITU-R Recommendations
- g) Frequency Stability : Should conform to the ITU Radio  
Regulations

12.3. **Technical Standards:-**

- a) The Permission Holder shall comply with the audio and transmission standards for FM sound broadcasting at each center conforming to the ITU-R (International Telecommunication Union) Recommendations viz. 450-3, 467, 646 and 644-1.
- b) The Permission Holder shall also comply with the technical standards on data broadcasting on FM sub-carriers, whenever introduced, conforming to ITU-R Recommendations viz. 643-1 and BS-1194-2.

13. **Provisions relating to data broadcasting services in FM sub-carriers:-**

- 13.1 The services provided will be free-to-air services and no charges will be required to be paid by listeners to the Permission Holder for such services.
- 13.2 None of the data services will carry any audio/video/text/data falling within the purview of news and current affairs.

- 13.3 Any broadcasts as part of data services will also be required to adhere to monitoring and storage requirements as provided herein.
- 13.4 Any service specific to an individual listener/subscriber like radio paging will not be permissible as such services require a separate permission/license from DOT.
- 13.5 Emergency warning services (EWS) if provided should only be used with the specific approval and guidance of the local District Administration.
- 13.6 Revenues, if any, earned by provisioning of such services shall form part of the overall Gross Revenue of the permission holder for the purposes of determination of annual fee.

14. **Mandatory sharing of certain broadcast signals with Prasar Bharati:-**

The Permission Holder shall ensure compliance with the provisions of Sports Broadcasting signals (Mandatory sharing with Prasar Bharati) Act, 2007 and rules, guidelines and notifications issued thereunder.

15. **Networking:-**

- 15.1 An entity will be permitted to network its Channels in its own network, within the country. However, it is also to be ensured that at least 20% of the total broadcast in a day (reckoned from 0000 hrs to 2400 hrs), is in the local language of that city and promotes local content. This may include the Radio Jockey speaking in local language(s)/ dialect(s) or programmes focused on local culture/tradition/folk music etc. or other permissible programmes/advertisements in the local language(s)/dialect(s).
- 15.2 No two entities shall be permitted to network any of their channels in any category of cities.

Note: The permission holder companies referred to in Note-1 below Para 8.1 of policy guidelines dated 25.07.2011 shall be treated as a single entity for the purposes of this Clause.

16. **WPC Wing's License:-**

- 16.1 Spectrum Charges (License fee & royalty) as prescribed by WPC which may be revised from time to time, shall have to be paid by the company towards grant of Wireless Operating License for usage of radio frequency.
- 16.2 The company shall not cause harmful interference to other wireless station. WPC Wing will have the sole discretion to take practicable and necessary steps for elimination of harmful interference, if any, to other licensed users.
- 16.3 The Wireless Planning and Coordination Wing, Ministry of Communications & IT shall have the right to inspect from time to time the installation from technical angles to check conformity with Wireless Operational License conditions.

17. **Monitoring and Requirement to Furnish Information:-**

- 17.1 The Company at its own cost shall,

- (a) Preserve the recordings of content broadcast by the Permission Holder for a period of three months from the date of broadcast and produce the same to the Grantor or its authorized representative, as and when required; and
  - (b) Provide the necessary equipment, services and facilities at designated place(s) as may be required and shall pay such charges as may be required for continuous monitoring of the broadcast content by or under supervision of the Government or its authorized representative.
  - (c) Provide the necessary equipment, services and facilities at designated place(s) for continuous measuring, recording and monitoring of prescribed technical parameters of broadcast as may be required and shall pay such charges as may be required for continuous monitoring of the broadcast service to BECIL. Rates of Monitoring charge shall be prescribed by BECIL from time to time.
- 17.2 The permission holder shall be liable to furnish to the Government of India or its authorized representative or TRAI or its authorized representative, such reports, accounts, estimates, returns or such other information and at such periodical intervals or at such times as may be required. An annual report shall also be required to be submitted by the Permission Holder that includes audited accounts, profit & loss accounts, balance sheet, shareholding, board of directors and key executives of the company.
- 17.3 The Permission Holder shall submit all such information as may be required by the Grantor to dispose of complaints by public with respect to its broadcast.
- 17.4 In case of non-payment of dues as per the provisions contained in Clause 17.1, the Grantor shall recover such dues from the Performance Bank Guarantee furnished by the permission holder.
18. **Inspection:-**
- 18.1 The Grantor or its authorized representative or TRAI or its authorized representatives, shall have the right to inspect the broadcasting facilities. No prior permission/intimation shall be required to exercise the right of Grantor or its authorized representative to carry out the inspection. The company will, if required by the Grantor or its authorized representative, provide necessary facilities for continuous monitoring for any particular aspect of the companies activities and operations.
- 18.2 The inspection will ordinarily be carry out after reasonable notice except in circumstances where giving such a notice will defeat the very purpose of the inspection.
- 18.3 The Grantor shall carry out periodic technical audit of the technical setup at the cost of the permission holder through a designated agency.
19. **Furnishing Information to the Grantor and preparation of Accounts:-**
- 19.1 The Permission Holder shall furnish the operationalisation report duly authenticated by BECIL/System integrator in the format given at **Annexure-I** to this agreement within a period of one month from the date of signing of this agreement. In the case of Delhi, the Permission Holder shall furnish the operationalisation report within a period of one month from shifting to the co-location facility.

- 19.2 The Permission Holder shall furnish to the Grantor, such documents, reports, accounts, estimates, returns or such other information and at such periodic intervals or at such times as the Grantor may require, in addition to an annual report of the Permission Holder that includes audited accounts, Profit & Loss Account, balance sheet, shareholding, Board of Directors and key executives of the company, in any case not later than 30<sup>th</sup>September of the following financial year and the quarterly report to be furnished by the Permission Holder in the format given in **Annexure-II** to this Agreement for quarters ending 31<sup>st</sup>March, 30<sup>th</sup>June, 30<sup>th</sup>September and 31<sup>st</sup>December. The quarterly report for each quarter shall reach the Grantor latest by 15<sup>th</sup> of the month following the end of the quarter.
- 19.3 The Permission Holder shall maintain separate financial accounts for each Channel, which shall be audited by the Statutory Auditors. At the end of each financial year, the company shall provide the statement of gross revenue forming part of the final accounts of the Permission Holder as per the format at **Annexure - III**, duly certified by the Statutory Auditors and duly supported by the audited accounts for the financial year. It may be noted that the income heads specified at **Annexure - III** are only indicative and illustrative and the Auditor would include all the relevant heads qualifying for gross revenue whether or not specifically included in the said format. In addition, the income from the Related Parties shall have to tally with the Related Parties schedule as per Accounting Standards no. 18. Besides, the company shall disclose the following information at the end of each financial year, duly certified by the Statutory Auditor:
1. Total trade and other discounts.
  2. Total agency commission.
  3. Total Related Party Transactions.
- 19.4 The Permission Holder shall annually submit a certificate of the Statutory Auditors for compliance of Clause 6.4 above along with the audited accounts as per format at **Annexure - IV**, in any case not later than 30<sup>th</sup>September of the following financial year.

20. **Disputes with Other Parties:-**

- 20.1 In the event of any dispute between the company and any party other than the Government (including in relation to the Permission and/or Broadcasting services, etc.) due to any reason whatsoever, it shall be the sole liability of the company to resolve such dispute amicably or otherwise with the other party and the Government shall have no liability whatsoever in this regard. Further, the company shall undertake to fully indemnify and keep the Government harmless in respect of any action, claim, suit, proceeding, damage or notice to/against the Grantor for any act of omission or commission on the part of the company,, its agents, employees, representatives or servants.

Provided that if any such third party dispute arises on account of non-observance or breach of any rules or regulations or any other terms and conditions of Licenses by the company as provided, the Government shall also have the right to take any action against the company as per the terms and conditions of permission.

21. **Dispute Resolution and Jurisdiction:-**
- 21.1 Dispute resolution shall be as per the provisions of Telecom Regulatory Authority of India Act, 1997 as amended from time to time or such other laws applicable to resolution of such disputes.
- 21.2 Subject to clause 21.1, the High Court of Delhi at New Delhi shall have the jurisdiction over all disputes.
22. **Confidentiality:-**
- Subject to applicable laws, the Permission Holder hereby agrees that for the term of this Agreement (except with the prior written consent of the other Party):
- (a) It shall not disclose details of this Agreement to any third party other than its employees, agents and/or advisers (only to the extent necessary in the usual course of business and/or as required by Applicable Law);
- (b) It shall maintain confidentiality of all information exchanged between the Parties, including pricing information and other proprietary knowledge, and not to use such for the benefit of any third party.
23. **Adherence to Eligibility Conditions:-**
- The Permission Holder shall continue to meet and satisfy the Eligibility Conditions as prescribed in the Notice Inviting Applications Document dated March, 2, 2015, during the whole term of this Agreement.
24. **Penalties:-**
- 24.1 For Non operationalisation of Awarded License:-
- 24.1.1 Each permission holder shall operationalize the channel and ensure completion of the activities preceding thereto within the time limits prescribed in Policy Guidelines dated 25.07.2011, failing which the permission will be revoked, and permission holder shall be debarred from allotment of another channel in the same city for a period of five years from the date of such revocation. The frequency so released may be allotted through subsequent bidding. The permission holder shall be liable to pay one year's annual fee. The government shall be well within its right to recover the same from the Performance Bank Guarantee already submitted. No claim will be admissible against the Non-refundable OTEF paid to the Government.
- 24.1.2 The Ministry of Information & Broadcasting may also revoke the permission if the channel is closed down either continuously or intermittently for more than 180 days in any continuous period of 365 days for whatever reason.
- 24.2 In case there is any violation of conditions cited in clauses 10.1, 11.1, and 11.2 above, Grantor may suo-moto or on basis of complaints take cognisance and place the matter before the **Inter-Ministerial Committees on Programme & Advertising Codes** for recommending appropriate penalties. On the recommendation of the Committee a decision to impose penalties shall be taken. However, before the imposition of a penalty the permission holder shall

be given an opportunity to represent its case. The Grantor shall, however be at liberty to specify any other mechanism to take action for such violations.

- 24.3 Except wherever provided otherwise, in the event of a permission holder violating any of the terms and conditions of permission or any other provisions of the FM Radio Policy, the Grantor shall have the right to impose the following penalties:
- 24.3.1 In the event of first violation, suspension of the permission and prohibition of broadcast up to a period of 30 days.
- 24.3.2 In the event of second violation, suspension of the permission and prohibition of broadcast up to a period of 90 days.
- 24.3.3 In the event of third violation, revocation of the permission and prohibition of broadcast up to the remaining period of the Permission.
- 24.3.4 In the event of any violation as mentioned in Clause 24.2 the Grantor shall be well within its right to award a lesser penalty which may include issuance of an advisory or a warning or a direction to run an apology on the channel or in any other manner depending on the gravity of the violation.
- 24.3.5 In the event of the failure of the Permission Holder to comply with the penalties imposed within the prescribed time, revocation of permission and prohibition to broadcast for the remaining period of the permission and disqualification to hold any fresh permission in future for a period of five years.
- 24.4. In the event of suspension of permission, the permission holder will continue to discharge its obligations under the terms and conditions of permission including the payment of fee.
- 24.5 In the event of revocation of Permission, the Grantor shall not be responsible for any investment towards the operationalisation of the channel, not limited to capital and operating expenditure, in case of imposition of any penalty referred above.
- 24.6 The Performance Bank Guarantee deposited by the permission holder for the channel may also be forfeited for failure to comply with any of the terms and conditions of GOPA.
- 24.7 All the penalties mentioned above shall be imposed only after giving a written notice to the permission holder to rectify the violation within a period of 15 days, failing which he shall be liable for the proposed penalty.
25. **Surrender of Permission:-**
- 25.1 The Permission Holder may surrender the Permission by giving an advance notice of one month to the Grantor as well as to all concerned/affected parties including the listeners of the service to this effect. No claim will be admissible against the Non-refundable OTEF paid to the Grantor. The Permission Holder shall however, continue to observe all obligations, terms and conditions of permission including the criteria for the quality of broadcast during the notice period and any failure to do so shall be regarded as breach of Permission conditions.
- 25.2 In case of surrender of Permission, the Grantor may (at its own discretion), in order to ensure the continuity of the Broadcast, take over the FM Radio



Broadcast Channel of the Permission Holder or issue Permission to another eligible company for running the service. The Permission Holder shall be obligated to facilitate the transfer of Permission to the new Permission Holder or the Grantor, and of all assets as are essential and necessary for continuity of the service on payment of such compensation as may be mutually agreed.

26. **Waiver:-**

Waiver by the Grantor on default by the Permission Holder in the observance and performance of any provision of or obligations under this Agreement:

(a) shall not be deemed by mere inaction or delay in action on the part of the Grantor and shall not be effective unless it is in writing and executed by a competent officer of the Grantor;

(b) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement; and

(c) shall not affect the validity or enforceability of this Agreement in any manner.

27. **Force Majeure during the permission period:-**

27.1 If at any time, during the continuance of permission, the performance of any obligation either in whole or in part by any party is prevented or delayed, by reason of war, hostility, acts of enemy, civil commotion, sabotage, fire, flood, act of State or Center, explosion, epidemic, quarantine restriction, strikes materially affecting the performance of any obligations of affected party, or act of God (all or any of these hereinafter referred to as "Force Majeure Event"), neither party shall, by reason of such Force Majeure Event be entitled to terminate this Permission, nor shall either party have any claim for damages against the other, in respect of such non-performance or delay in performance provided a notice of such happenings of any such Force Majeure Event is given within 21 days from the date of occurrence thereof. Provided further that services under this Permission shall be resumed as soon as practicable, after such Force Majeure Event comes to an end or ceases to exist. The decision of the Grantor as to whether the services may be so resumed or not, shall be final and conclusive.

27.2 If the broadcast of the Permission Holder remains discontinued due to such Force Majeure Event for more than two months, the parties shall meet together to discuss the future course of action.

27.3 The Grantor shall not be obliged to grant any rebate in the Annual Fee on account of any Force Majeure Event referred to above, where the Permission Holder decides to continue the broadcast. Provided, however, the Grantor may at its discretion allow rebate in appropriate case in case the broadcast cannot be continued, even after two months of the occurrence of the event.

28. **Miscellaneous:-**

28.1 The grant of permission shall be subject to the condition that the permission Holder shall comply with any regulation, order and directions issued by TRAI from time to time under the TRAI Act 1997.

- 28.2 The permission shall be governed by the laws of India including the provisions of Telecom Regulatory Authority of India Act, 1997, Indian Telegraph Act 1885 and Indian Wireless Telegraphy Act 1933 as amended from time to time and any other law as applicable to broadcasting which has or may come into force.
- 28.3 The Government shall have the right to modify at any time the provisions of the Policy Guidelines dated 25.07.2011 and/or the terms and conditions of permission, if in the opinion of the Government it is necessary or expedient to do so in public interest or in the interest of the security of the State. The decision of the government shall be final and binding in this regard.
- 28.4 The Notice Inviting Application (NIA) Document, Letter of Intent and orders/guidelines issued or to be issued from time to time by the Grantor or any Regulatory Authority for Broadcasting Services, and the Wireless Operational Licence issued by the Wireless Planning & Coordination Wing in the Department of Telecommunications, Ministry of Communication & IT , Government of India under Section 4 of the Indian Telegraphs Act, 1885 as amended from time to time, shall form part and parcel of this Agreement.
- 28.5 Notwithstanding anything contained anywhere in this Agreement, the grant of permission shall be subject to the condition that as and when any regulatory authority to regulate and monitor the Broadcast Service in the country is constituted, the permission Holder shall also adhere to the norms, rules and regulations laid down by such authority or any Applicable Law to regulate and monitor the Broadcast Service in India. The Permission Holder shall also obtain and keep effective all environmental clearances, if any, and shall comply with requirements of the Electricity Act, Factories Act and other applicable Acts.
- 28.6 The Permission Holder shall take prior permission of the Grantor, before effecting any change in the Board of Directors.
- 28.7 The Permission Holder shall intimate the Grantor, the changes in Total Foreign Investment in its company, within 15 days of such change, while ensuring its continued compliance with the eligibility conditions. Besides, the Permission Holder shall intimate the quantum of FDI/FII investments in the equity of Promoters and Majority shareholding companies of the Permission Holder company, as on 31<sup>st</sup> March every year, so as to arrive at the total foreign holding in the company.

IN WITNESS WHEREOF the parties hereto have executed this Agreement, the day, month and year as hereinabove mentioned.

Signed Executed and Delivered on behalf  
of President of India  
by \_\_\_\_\_

Signed Executed & Delivered on behalf  
of \_\_\_\_\_  
holder of General Power of Attorney  
dated \_\_\_\_\_ executed in accordance  
with Board Resolution dated \_\_\_\_\_  
by \_\_\_\_\_

**ANNEXURE - I**

**PROFORMA FOR THE OPERATIONALISATION REPORT  
TO BE SUBMITTED BY THE PERMISSION HOLDER**

1. Name of the City:
2. Name and address of the Permission Holder:
3. Details on the status of the Permission Holder's FM Radio Broadcast facility:

<b>Activity</b>	<b>Date (dd/mm/yy)</b>
(i) Date of receipt of Letter of Intent from the Grantor	
(ii) Date of application filed with WPC for frequency allocation.	
(iii) Date of Application filed with WPC for SACFA clearance	
(iv) Date of receipt of frequency allocation	
(v) Date of receipt of SACFA clearance	
(vi) Date of signing agreement with Prasar Bharati.	
(vii) Date of signing agreement with BECIL./System Integrator	
(viii) Date of signing GOPA	
(ix) Date of issue of permission	
(x) Date of completion of FM Radio Channel installation	
(xi) Date of issue of Wireless Operational License by the WPC	
(xii) Date of commissioning of broadcast by the Permission Holder	

Note: Wherever there are changes in the frequency, transmitter site location, antenna height etc. the revised WOL would need to be obtained from WPC Wing, Department of Telecommunication, Ministry of Communication & IT after obtaining new frequency spot, fresh SACFA clearance, as appropriate.

4. Give the following particulars about the site of studio
  - (a) Area
  - (b) Coordinates
  - (c) Postal Address
  - (d) Whether free hold or lease
  - (e) In case of lease, give the period to lease
  - (f) Whether the site is within Municipal/Corporation/City Development Authority Limits?
5. Give the following details about the transmission equipment installed.
  - (a) Effective Radiated Power (ERP) of the transmitter:
  - (b) Effective Height of the Antenna above Average Terrain (EHAAT):
  - (c) Antenna Polarization

- (d) Gain of the antenna.
  - (e) Type of Stereophonic Transmission System
  - (f) Pre-emphasis to be employed
  - (g) Max deviation
  - (h) Operational Frequency of Channel
6. Give the following details about the Studio Setup.
    - (a) Number and types of studios/booths.
    - (b) Brief Particulars of Mixing and Switching Systems.
    - (c) Brief Particulars about Recording/Playback equipment.
    - (d) Details of ST Link if used
  7. Has the field strength/reception survey been carried out? Enclose a copy of the report.
  8. Give the following details about the power supply connection obtained.
    - (a) Load
    - (b) Supply Voltage
    - (c) Whether 3 phase or single phase
  9. Have the recommendations for Fire Fighting arrangements been obtained and adequate Fire Fighting equipment installed?
  10. Are regulations concerning tower lighting being followed and necessary facilities for the same provided?
  11. Whether necessary infra-structure for continuous recording and monitoring of broadcast material made by the Permission Holder as required by the Government to enable it to dispose-off complaints by the public with respect to the broadcasts made by the Permission Holder?
  12. Is the Permission Holder complying with the audio and transmission standards for FM sound broadcasting as stipulated in license conditions?

Name, Designation & Signature

of the Authorized Signatory of the

Permission Holder.

Dated:.....

Authenticated by:

Name, Designation & Signature

Of the Authorized Signatory of BECIL/System Integrator.

Dated:.....

**ANNEXURE - II**

PROFORMA FOR THE QUARTERLY REPORT TO BE SUBMITTED BY  
THE PERMISSION HOLDER  
(Report for the quarter ending .....)

**PART – A (PROGRAMME CONTENT)**

1	Name of the City	
2	Name & Address of Permission Holder	
3	Hours & timings of broadcast	
4	Details of Broadcast	
a	Percentage of canned programmes	
b	Percentage of locally produced programmes	
c	Indicate the types of locally produced programmes viz. Entertainment, Music, Business, City Information, Cultural, Sports etc.	
d	Percentage of programmes made in India	
e	Percentage of programmes made outside India	
f	Public interest programmes broadcast, if any. Indicate duration	
5	Is the Permission Holder carrying out any Data broadcast? If so, give details.	
6	Is the Permission Holder adhering to the conditions specified in the GOPA in respect of program content and quality of broadcast?	
7	Indicate the percentage of time devoted to advertisements, per day.	

**PART – B (PUBLIC COMPLAINTS)**

1	Has the Permission Holder provided necessary infrastructure for continuous monitoring recording & preserving of all the broadcasts made by it?	
2	Is the Permission Holder preserving the recordings of broadcast material for a period of 3 months from the date of broadcast as per the terms and conditions of permission?	
3	Give the following details about the number and nature of complaints received during the period. (Specify the period).	
a	Number of Complaints.	
b	Nature of Complaints.	
c	Number of Complaints disposed of.	
d	Number of Complaints pending.	
4	Has there been any occasion where the Grantor has to come in the picture (during the period specified in 3) in disposing of the complaints? If so give the details.	

**PART – C (DETAILS OF EQUITY)**

1	Authorised Capital	Rs. In lakhs	
2	Issued and paid-up Capital	-do-	As percentage of Authorised Capital
3	Classification of equity holding	-do-	As percentage of Paid up Capital
a	Total equity held by Majority Shareholders/ Promoters	-do-	-do-
b	FDI in Majority Shareholders/ Promoters	-do-	-do-
c	Indian Financial Institutions and Banks.	-do-	-do-
d	Other Indian Shareholders.	-do-	-do-
e	Percentage of Majority Shareholders' / Promoters equity to Total Paid Up Equity net of Banks and Public Financial Institutions Equity.	-do-	-do-
f	Direct Foreign Investment (including OCB, PIO, NRI, FDI compliant instruments)		
g	Indirect Foreign Investment (For the purpose of computation of indirect foreign investment, foreign investment in an Indian company shall include all types of foreign investments i.e. FDI; investment by FIIs; FPIs ; QFIs; NRIs; ADRs; GDRs; Foreign Currency Convertible Bonds (FCCB); fully, compulsorily and mandatorily convertible preference shares and fully, compulsorily and mandatorily convertible Debentures regardless of whether the said investments have been made under Schedule 1, 2, 2A, 3, 6 and 8 of FEMA (Transfer or Issue of Security by Persons Resident Outside India) Regulations, 2000.)		
h	Foreign Institutional Investor/Foreign Portfolio Investor		
i	Total Foreign Investment [f + g + h]		

Name, Designation & Signatures  
of the Authorized Signatory of the  
Permission Holder.  
Dated:.....

**ANNEXURE - III**

Statement of Gross Revenue forming part of the Final Accounts of  
M/s \_\_\_\_\_ the FM permission holder

Sl.no	INCOME HEADS	Tariff rate/ rate card	Discounts		Agency commissio n	Taxes	Net as per P&L a/c
			trade	others			
( Amount Rupees in lacs)							
		A	B	C	D	E	F
1	Advertisement						
2	Promotional Events						
2.1	Musical/Star Events						
<b>2.2</b>	<b>Sponsored Programmes</b>						
3	Marketing Rights						
4	Commission						
5	Royalties						
6	Sale of recorded cassettes, CDs etc						
7	Rent –Premises						
8	Rent-Equipment						
9	Interest/Dividend						
10	Related Party Transactions						
10.1	Goods Sold						
10.2	Services rendered						
10.3	Production						
10.4	Marketing						
10.5							
	<b>Total</b>						

**Notes:**

1. The income heads are only indicative and illustrative and the Auditor would include all the relevant Heads of the FM Permission Holder.
2. The income from the Related Parties shall tally with the Related Parties schedule as per accounting standards no 18.

**[Auditors]**

**Certificate of the Auditors of the FM Permission Holder**

We have audited the Books of Accounts of ----- for the financial year ended March 31, 20\_\_- and certify that the:

- (1) M/s ....., permission holder for operating FM radio services maintains separate financial accounts for each channel.
- (2) All the transactions of providing or receiving goods and services from other companies owned or controlled by the owners of the permission holder, are valued at normal commercial rates and included in the books of accounts to arrive at the Gross Revenue.
- (3) Permission holder have not entered into any borrowings or lending or other commercial arrangements with other permission holders or entities other than recognized Financial Institutions restricting its management or creative discretion to procure or broadcast content or exercise marketing rights.

[Auditors]