

**AGREEMENT ON THE USE OF MULTIPLEX FACILITIES**

**THIS AGREEMENT** is made this \_\_\_\_\_ day of \_\_\_\_\_ 20.....,

BETWEEN

..... of P.O. Box..... Dar es Salaam  
Tanzania (hereinafter referred to as "**MULTIPLEX OPERATOR** ") of the one part;

**AND**

..... of P.O. Box..... Dar es Salaam  
Tanzania (hereinafter referred to as the **CONTENT SERVICE LICENSEE**) on the  
other part.

**WHEREAS:**

- (A) The CONTENT SERVICE LICENSEE has requested the MULTIPLEX OPERATOR to provide transmission and signal distribution service in Tanzania; (hereinafter referred to as "**the services**");
- (B) The MULTIPLEX OPERATOR is authorized under its National Network Facilities Licence to provide the services to the CONTENT SERVICE LICENSEE;
- (C) The parties hereto are desirous to enter into an agreement for use of multiplex facilities and have agreed for the services to be provided in accordance with terms and conditions hereinafter contained;

## **NOW THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:-**

### **1.0. SCOPE AND PURPOSE OF AGREEMENT**

- 1.1. The purpose of this agreement is to enable a Content Service Licensee to provide digital broadcasting services to consumers using the infrastructure (facilities) of the MULTIPLEX operator.
- 1.2. The services to be provided by the MULTIPLEX operator to the content service licensee under this agreement shall comprise of **the following but not limited to:**
  - a) Free to Air broadcasting service as primary obligation;
  - b) Content by Subscription (pay television) broadcasting services on secondary basis;
  - c) to make available, provision of content aggregation and programme bouquet handling system that support data paths embedded in the DVB stream based on open source (non-proprietary) multimedia system to support Electronic Programme Guide and Electronic Programme Information for Free to Air and Conditional Access (subscription) services.

### **2.0. OBLIGATION OF THE MULTIPLEX OPERATOR**

The Multiplex Operator shall provide to the Content Service Licensee:-

- 2.1. performance and link availability data on a daily basis for the terms of agreement;
- 2.2. timely and accurate billing of services;
- 2.3. advise the Content Service Licensee of plans to improve/expand/modify infrastructure after approval of the Authority;
- 2.4. assurance that the equipment used in the digital broadcasting value chain meets required specifications as provided by the Authority;

- 2.5 assurance that the signal is processed, distributed and transmitted without degradation;
- 2.6. assurance that the link from the studio to Multiplex Operator is accessible without any technical difficulties;
- 2.7 advise on intended maintenance schedule taking into consideration agreed Mean Time Between Failure (MTBF);
- 2.8 make efforts to resolve network failure and any other unforeseen faults on the network within minimum possible period;
- 2.9 Monitor coverage of service area per service area and inform the Content Service Licensee accordingly;
- 2.10 To carry the Content Service Licensee in the licensed service area;

### **3.0. OBLIGATIONS OF CONTENT SERVICE LICENSEE**

A Content Service Licensee shall:-

- 3.1. ensure that the link from studio to Multiplex Operator Head-end is available and meets performance requirement;
- 3.2. pay bills to the MULTIPLEX Operator for services rendered as per agreement;
- 3.3. take appropriate action on MUX's intention and plans to improve/expand/modify infrastructure;
- 3.4 advise the Multiplex Operator of plans to improve/expand/modify infrastructure after approval from the Authority including licence upgrade;
- 3.5 inform Multiplex Operator of suspension or revocation of Licence by the Authority;

- 3.6 advise on intended maintenance schedule of the studio taking into consideration agreed Mean Time Between Failure (MBF);
- 3.7 make efforts to resolve link failure and any other unforeseen faults in the studio and link within minimum possible period;
- 3.8 monitor its broadcasted program in the licensed service area per site coverage and archive as shall be deemed appropriate;
- 3.9 ensure he owns the copyright of programs for distributing and broadcasting the programs and will not infringe any right or intellectual property right of any third party.

#### **4.0. PROVISION OF INFORMATION**

The Parties shall exchange technical and other necessary information for the effective implementation and management of broadcasting services.

#### **5.0. TRANSMISSION FEES**

- 5.1. The Content Service Licensee shall pay a transmission fee of USD/TSH .....per month per service area per MULTIPLEX OPERATOR or as they may agree;
- 5.2. The Multiplex Operator is required to ensure that transmission fees are transparent, non discriminatory and cost based in accordance with Regulations, Rules and Directives issued by the Authority;
- 5.3. Agreement shall include penalty for delays of payment of transmission fees.

#### **6.0. PARENTAL CONTROL MECHANISM**

- 6.1. The Multiplex Operator shall put in place a mechanism that ensures a subscriber to block a programme, based on the classification of the programme, or a channel, included in the service.

6.2. Content Service Licensee shall put in place parental control mechanism on content provided to MUX Operator for distribution and transmission.

6.3 the Content Service Licensee shall inform the Multiplex Operator programme classification for the purpose of parental control mechanism.

## **7.0. ELECTRONIC PROGRAMME GUIDE**

7.1. The Multiplex Operator shall have in place a mechanism that enables Electronic Programme Guide;

7.2. The Content Service Licensee shall provide to the Multiplex Operator a schedule of its Electronic Programme Guide for a minimum of one month in advance;

## **8.0 PROGRAMME MAP TABLE**

8.1 Both parties shall insure that programme map table details are provided, activated and displayed from time to time.

## **9.0. CALL CENTRE**

9.1. The MULTIPLEX Operator shall establish a call centre in Tanzania in order to provide technical assistance and support to Content Service Licensees for services rendered.

9.2. The MULTIPLEX Operator shall inform the public on the call centre services and operating hours.

## **10.0. QUALITY OF SERVICE**

10.1 The MULTIPLEX operator shall use its best endeavours to ensure that it provides to the Content Service Licensee high quality of service and that it complies with the requirements of quality of service in the Digital Broadcasting Rules, and the Electronic and Postal Communications (Digital and other Broadcasting Networks) Regulations, 2011.

10.2 The Content Service Licensee shall insure that the quality of the signal transmitted to nearest regional Multiplex head-end complies with the requirements of quality of service in the Digital Broadcasting Rules, and the Electronic and Postal Communications (Digital and other Broadcasting Networks) Regulations, 2011.

10.3 If either party does not meet Quality of Service (QoS) parameters prescribed by the Authority, relevant regulations shall apply.

### **11.0. COMPLAINTS PROCEDURE**

The Multiplex Operator is required to:-

11. comply with the Electronic and Postal Communications (Consumer Protection) Regulations 2011 ;

11 establish a complaints system whereby both parties will be able to lodge and resolve the complaint.

### **12.0. NOTICES**

All notices and other communications relating to this Agreement shall be in writing and shall be sent to:-

a) Name of Chief Executive Officer

NAME OF MULTIPLEX OPERATOR

FULL ADDRESS

b) Name of Chief Executive Officer

NAME OF CONTENT SERVICE LICENSEE

FULL ADDRESS

### **13.0. TERM OF AGREEMENT**

13.1 This agreement comes into effect on the date hereof ..... and shall be valid for period to be agreed by both parties;

13.2 The parties shall start renewal process one month before expiry date;

13.3 This Agreement shall be reviewed on annual basis.

### **14.0 TERMINATION**

Both parties to this agreement shall issue conditions for termination of contract which will include but not limited to:-

- a) failure to remedy a breach of any term or condition of this agreement within a period to be agreed by the parties;
- b) incase if the licence is suspended or cancelled by the Authority;
- c)incase if either party is declared bankrupt or is insolvent.

### **15.0 FORCE MAJEURE**

**The parties to consider among other factors the following:**

15.1 For the purposes of this contract, "Force Majeure" means an event which is beyond the reasonable control of a party and which makes a party's performance of its obligations under the contract impossible. Such events may include but are not limited to fires, floods, epidemics, quarantine restrictions, wars or revolutions.

15.2 The failure of a party to fulfil any of its obligations under the contract shall not be considered to be a breach of, or default under, this contract in so far as such inability arises from an event of Force Majeure, provided that the party affected by such an event:

(a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this contract, and

(b) has informed the other Party as soon as possible about the occurrence of such an event.

15.3 Any period within which a party shall, pursuant to this contract, complete any action or task, shall be extended for a period equal to the time during which such party was unable to perform such action as a result of Force Majeure.

#### **16.0. APPLICABLE LAW**

This Agreement and its performance shall be governed and construed in accordance with the laws of the United Republic of Tanzania.

#### **17.0 ASSIGNMENT**

**The parties to consider among other factors the following:**

17.1. No rights, benefits or obligations may be assigned or transferred, in whole or in part, by a party without the prior written consent of the other party;

17.2. Where the assignment relates to obligations of either party under this agreement, parties are required to get prior written consent of the Authority.

#### **18.0. VARIATION**

**The parties to consider among other factors the following:**

No addition to or variation, consequential cancellation of this Agreement shall be of any force or effect unless reduced in writing and signed by both Parties or their duly authorised representatives.



## **19.0 DISPUTE SETTLEMENT**

**The following procedures shall be followed in dispute settlement**

19.1. Where any dispute arises between the **MULTIPLEX OPERATOR** and **CONTENT SERVICE LICENSEE** on terms of this Agreement, or any matter connected to this agreement, an amicable settlement should be first applied.

19.2. If the disagreement has not been resolved within 30 days of notice of the dispute, any aggrieved party may petition to the Authority to arbitrate any unresolved issues.

## **20.0 CONFIDENTIALITY**

Agreement to the parties shall include provision for confidentiality.

## **21.0 THIRD PARTY INVOLVEMENT**

Agreement to the parties shall include clauses for engaging third parties.

## **22.0 CONTACT PERSONS**

The parties shall identify and nominate dedicated contact persons for which matters pertaining to this agreement shall be reported to. The agreement shall indicate full contact detail including: physical address, telephone numbers, email address and fax number.

**IN WITNESS WHEREOF** the parties hereto have set their respective hands and delivered this agreement the day and year first above appearing.

NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DESIGNATION: \_\_\_\_\_

For and on behalf of:

**(NAME OF CONTENT SERVICE LICENSEE)**

In the Presence of:

NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DESIGNATION: \_\_\_\_\_

NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DESIGNATION: \_\_\_\_\_

For and on behalf of:

**(NAME OF MULTIPLEX OPERATOR):**

In the Presence of:

NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DESIGNATION: \_\_\_\_\_