

END USER LICENSE AGREEMENT

This End User License Agreement is effective from 1st day of April, 2020 ("Effective Date"), by and between:

BROADCAST AUDIENCE RESEARCH COUNCIL, a company duly incorporated under the Companies Act, 1956, having its registered office at 61, Dr S S Road, Rose Cottage, Parel (East), Mumbai 400 012 with CIN number U73100MH2010NPL265172, hereinafter referred to as "**BARC**" (which term shall, unless repugnant to the context or meaning hereof, be deemed to mean and include its successors-in-interest and assigns) of the **ONE PART**;

AND

Subscriber , (which expression shall unless it be repugnant to the context or meaning thereof be deemed to mean and include its successors-in-interest and permitted assigns) of the **OTHER PART**;

BARC and Subscriber are hereinafter referred to collectively as "Parties" and individually as "Party".

WHEREAS:

- A. BARC is an organization which has been set up in India with the specific purpose of designing, commissioning, supervising and owning India's television audience measurement system. Subscriber is aware that BARC is a joint industry body comprising of Indian Broadcasting Federation (IBF), Advertising Agencies Association of India (AAAI) and Indian Society of Advertisers (ISA);
- B. Subscriber is inter alia, engaged in the business of broadcasting;
- C. Subscriber has represented and acknowledged that it is aware of BARC's parameters for arriving at the Licensed Data (as defined hereinafter) including the absolute discretion of reporting of Ratings of any channel. Subscriber has also represented that it shall adhere to the (i) Code of Conduct, as mentioned in Annexure A; and (ii) Principles of fair and permissible usage of BARC India rating as available in Annexure B to this Agreement. Relying on the representations of the Subscriber BARC has agreed to grant license of the Licensed Data for the limited purpose of Subscriber's internal research and analysis only on terms and condition mentioned herein;
- D. Relying upon the representations made by Subscriber, BARC is willing to provide non-exclusive, non-transferable, non-sublicensable limited license of its Services (mentioned under this Agreement) only for Subscriber's use (as agreed under this Agreement) on the terms and conditions more particularly set out hereunder.

STANDARD TERMS AND CONDITIONS

1. STRUCTURE AND PRECEDENCE

- 1.1. This Agreement is an overall contractual framework for the non-exclusive, non-transferable, non-sublicensable limited license of Services (defined hereinbelow).
 - 1.2. This Agreement consists of:
 - 1.2.1. Standard Terms and Conditions;
 - 1.2.2. the Annexures.
 - 1.2.3. SOWs
- When interpreting this Agreement and in the event of any inconsistency between the aforementioned documents, the inconsistency shall be resolved by giving precedence in the following order: (i) Standard Terms and Conditions; (ii) Annexures; and (iii) SOWs;. Other documents referenced by this Agreement shall sit at the same level of precedence as the part of this Agreement from which they are referenced unless expressly agreed in writing otherwise.
- 1.3. In the event that the Parties wish to make any change to this Agreement then they shall do so expressly in writing, which must be signed by authorised representatives of both Parties. In the event that the parties wish to make any change to a SOW then they shall do so in writing acting through duly authorised representatives.

2. DEFINITIONS

For the purpose of this Agreement the following meanings shall be ascribed to the following words save and except where otherwise expressly specified:

- i. **"Affiliates"** mean, with respect to a Party, any Person at any time Controlling, Controlled by or under common Control with such Party. Control, Controlling, or Controlled means the power to direct the management or policies of a Person, whether through the ownership of 50% or more of the voting power of such Person or through the power to appoint a majority of the members of the board of directors or similar governing body of such Person.
- ii. **"Agreement"** shall mean this end user license agreement and the special terms and conditions and any schedules(s), annexures(s), and Statement of Work(s), Code of Conduct **and including any amendment(s) and addendums thereto**, forming part of this Agreement.

- iii. **“Applicable Law”** means all laws, legislation, regulations, binding codes of practice, or rules or requirements of any relevant government or governmental agency applicable to (i) the Agreement, Services and documentation; and (ii) either Party, (as the context requires);
- iv. **“Bar-o-meters”** shall mean the audience viewership measurement tool which will be deployed by BARC to record the viewership data from the Panel Households based on their viewership of the Channels;
- v. **“Channel(s)”** shall mean the analogue, if any, and/or satellite television channels owned and operated by the Subscriber and the various other broadcasters, which are downlinked into the geographical territory of India, as a part of Subscriber’s or the other broadcaster’s channel network.
- vi. **“Code of Conduct”** shall refer to the standards and practice, including the Code of Conduct for redressing Viewership Malpractices, as set out in Annexure A, which Subscriber acknowledges and undertakes to adhere to the same as a condition precedent to the grant of license and shall continue to adhere to during the entire Term;
- vii. **“Confidential Information”** shall mean the terms of this Agreement and any or all such nonpublic information which is clearly stated, marked, identified or designated by either party to be proprietary or confidential and / or which, under the given circumstances ought to be treated as confidential and includes inter alia, the said Party’s business policies or practices, business plans, dealings, price lists or pricing structure, technical data, employee data or officer’s data, details of advertising revenues, findings, ideas, concepts, know – how, other non – generic information whether tangible and / or intangible, written and / or oral, relating to any released / unreleased concepts, ideas, projects and Services of the said Party and any other information received from other sources which the other Party is obliged to treat as confidential; and/or (b) concerning the business and affairs of a Party or any data that a Party obtains or receives from the other Party; and/or (c) which arises out of the delivery of the Services or otherwise (in which case, such information shall deemed to be “Confidential Information” of BARC which has been disclosed to the Subscriber.
- viii. **“Data Protection Legislation”** shall mean all relevant legislation on the protection of individuals with regard to the processing of personal data and on the free movement of such data, including Information Technology Act 2000, Consumer Protection Act; and rules and regulations thereto including any amendment issued from time to time and any additional, supplementary or subsequent law or regulation relating to similar subject matter;
- ix. **“Disciplinary Council”** shall mean the committee constituted for the purpose of addressing and determining issues of Viewership Malpractice, details of which are set out in the Code of Conduct on BARC website and it shall be amended from time to time

<https://barcindia.co.in/policy-updates/barc-code-of-conduct-for-redressing-viewership-malpractices-effective-1st-april-2020.pdf>

- x. **“Event of Force Majeure”** shall mean acts of God, explosions, earthquakes, hurricane, drought and tidal waves, fires, floods, weather, catastrophes, epidemics or quarantine restrictions war, or other cause(s) beyond the reasonable control of a Party, not reasonably foreseeable, not caused by acts or omissions of the Party affected and that could not have been avoided through a work around plan, which prevents the Parties from rendering their obligations;
- xi. **“Fair Usage Guidelines”** shall mean guidelines published for fair, permissible and commercial use of BARC viewership data and uploaded at the BARC website at <https://barcindia.co.in/policy-updates/barc-india-guidelines-for-single-event-reporting-amended-july-2019.pdf> ;
- xii. **“Licensed Data”** shall have the meaning set out in the SOW;
- xiii. **“Licensed Software”** shall mean the interface installed at the machines (laptops/desktops or other computers) of specified authorized users at the Subscriber’s office(s) through which the Subscriber shall access the Licensed Data;
- xiv. **“Login”** shall mean the entering of identifier information into a system by a user in order to access the Licensed Data through the Licensed Software;
- xv. **“Panel Households”** mean persons in selected households within the Republic of India, who are used as the reference audience for the purpose of BARC’s audiovisual audience measurement services, and whose house will be equipped with one or more BAR-Ometers; The Panel households can be modified/appended/replaced/reconsidered, year on year basis, based on the change in the market.
- xvi. **“Person”** shall mean and include an individual, an association, a corporation, a partnership, a joint venture, a trust, an unincorporated organisation, a joint stock company or other entity or organisation, including a government or political sub-division, or agency or instrumentality thereof and/or any other legal entity.
- xvii. **“Purpose”** shall mean non-commercial usage (i.e. use of data other than for sale or exploitation of data itself) for (i) internal research and analysis of the Licensed Data and Services by Subscriber, (ii) marketing, promotion and as a base for sale of advertisements as well as a reference point in its documents and agreements etc. with any party or person or any other part of the broadcast and other business of the Subscriber;

- xviii. **"Ratings"** shall mean the ratings/ranking of a Channel arrived at after the statistical analysis of the viewership data from the Panel Households recorded by the Bar-o-meter;
- xix. **"Remote Login"** shall mean a login provided to the Subscriber, which allows a user terminal to connect to a host computer via a network or direct telecommunication link, and to interact with that host computer as if the user terminal were directly connected to that host computer and allows for the Subscriber to access the Licensed Data through the Licensed Software;
- xx. **"Services"** shall mean the research and analytical services to be provided by BARC to Subscriber in the form of the Licensed Data;
- xxi. **"Statement of Work/SOW"** shall mean the document setting out the pricing models for the license of the Licensed Data and Licensed Software and other commercial terms;
- xxii. **"Territory"** shall mean the Republic of India;
- xxiii. **"Unauthorized Access"** shall mean gaining access to Licensed Software and/or Licensed Data through Subscriber's computer, network, storage medium, system, program, file, user area, or other private repository, without the permission of BARC;
- xxiv. **"User Guide"** shall mean the user training manual which will be provided to the Subscriber at the time of training, setting out the manner of operating and using the Licensed Software and extracting the Licensed Data. User Guide shall also include all updated versions of the User Guide to be provided by BARC during the Term;
- xxv. **"Viewership Malpractice(s)"** shall include any activity, which is undertaken by any person, whether directly or indirectly, with the aim of (i) manipulating the viewership pattern/habits of a Panel Household, or (ii) altering the Viewership Data, which does or may result in altering the Ratings of a particular Channel or television programme or advertisement in a manner which is in breach of the EULA. Some examples of activities that amount to breach are:
- a. Attempt to obtain details of the Panel Households, like address, member names etc.
 - b. Attempt to bribe/influence a Panel Household to watch or not watch a particular television programme or Channel;
 - c. Attempt to bribe any of the staff appointed by BARC or its agents or any other entity in possession of any data relating to Panel Households or Ratings.

- xxvi. **“Watermark”** shall mean the equipment-specific unique digital set of data (watermark payload) embedded in the audio track of the content by using an embedder software that allows further identification of the relevant Channel and timestamp of the broadcaster operating that embedder software, for which purpose the payload contains an embedder identifier code and a timestamp.

3. INTERPRETATION

I. The words and expressions used in this Agreement shall:

- i. Where used in the singular or plural be deemed to also include the plural or singular respectively;
- ii. Where used in the masculine gender be deemed to include the feminine.
- iii. The terms “hereof”, “herein”, “hereby”, “hereof” and derivative or similar words refer to this entire Agreement.
- iv. The term “clause” refers to the specified clause of the Agreement.

II. Headings and bold typeface are only for convenience and shall be ignored for the purpose of this Agreement.

4. CONDITION PRECEDENT

BARC shall have no obligation under this Agreement until:

- i. BARC receives an executed original of this Agreement in the form and manner required by BARC.
- ii. Copies of the valid licenses or permissions issued by the Ministry of Information and Broadcasting (“MIB”) for the Channels.

5. TERM

- i. This Agreement shall be valid for a period as agreed between the Parties (“**Term**”), unless terminated earlier as per the provisions contained herein. The Parties have agreed that each SOW executed by Subscriber shall be valid for the period set out in each respective SOW but not exceeding the Term.

- ii. Renewal: There will be no automatic renewal of the Agreement

6. GRANT OF LICENSE

- i. Relying on the representations and warranties made by Subscriber and subject to receipt of the License Fee as per the payment terms specified in the SOW, BARC hereby grants to Subscriber a limited non-exclusive, non-transferable, non-sublicensable license to use within India the Licensed Data and the Licensed Software strictly for the Purpose, including for creation of derivative works incorporating/based upon the Licensed Data or parts thereof. Subscriber acknowledges that all rights in and to the Licensed Data and Licensed Software, including all copyright and other intellectual property rights therein are retained by BARC and/or its respective licensors, as the case may be, save for the rights granted to the Subscriber herein. The license granted hereby is only for the Territory during the Term. BARC hereby grants to the Subscriber a non-exclusive, license in the derivative works and all parts thereof created prior to the expiry or earlier termination of the Agreement, for use of the said derivative works within the Territory, in accordance with the terms of this Agreement strictly for the Purpose.
- ii. As a part of the license granted hereby, Subscriber shall be granted Login and/or Remote Login, as the case may be, for accessing the Licensed Data for the Purpose.
- iii. The Subscriber acknowledges that the Licensed Data will be provided to the Subscriber only for the Purpose and the Subscriber undertakes that it will strictly adhere to this requirement.

7. MODE OF ACCESS OF DATA

- i. BARC shall upload the Licensed Data to its server at 11am on the Thursday of every week (or the next working day if that week's Thursday is a declared holiday), and will provide the Ratings for the immediately preceding week.
- ii. The Subscriber shall use the Login to download the Licensed Data for the Purpose.
- iii. Subscriber also agrees to maintain the security of its central system and take adequate precautions to safeguard the Login and Remote Login and to prevent any Unauthorized Access.
- iv. Subscriber acknowledges that BARC shall not be responsible for any operating error or misuse of Licensed Software by the Subscriber in any manner whatsoever or for not following the User Guide or for any errors in the Licensed Data caused by a virus. However, BARC will reinstall the Licensed Software within a reasonable time after receiving written communication from Subscriber regarding any error caused by a virus provided Subscriber detects the virus and intimates BARC in that respect.

- v. BARC reserves the right to make any enhancements, modifications and up-gradation in the Licensed Software.
- vi. BARC shall control the Login installed for each user terminal through MAC ID of the hardware. BARC recommends that all user terminals of Subscriber be connected with the internet during use of Licensed Software.

8. OBLIGATIONS OF PARTIES

- i. The obligations of Subscriber are:
 - a. The Subscriber acknowledges that the Disciplinary Council has been appointed by BARC for addressing issues related to Viewership Malpractices. The Subscriber agrees that it shall adhere to the Code of Conduct at all times during the Term;
 - b. Subscriber shall use the Licensed Data only for the Purpose during the Term and only in the Territory strictly in accordance with the terms of this Agreement;
 - c. Subscriber shall ensure that the Licensed Software is not used for third party training, outsourcing or in a time-sharing service or a rental or service bureau operation, all of which are expressly prohibited;
 - d. Subscriber agrees and acknowledges that BARC is an absolute owner of the Licensed Data and the Licensed Software, and has absolute discretion to suspend the Ratings of any Channel(s), in accordance with the Code of Conduct and decisions of the Disciplinary Committee;
 - e. Subscriber undertakes for itself and on behalf of its officers, directors, employees, agents, Affiliates, and any third party associated with the Subscriber, that it shall not directly or indirectly, engage in any form of Viewership Malpractice.
 - f. Subscriber shall not employ or engage with any ex-employee or agent of BARC, who BARC reasonably believes may have access to or knowledge of the Panel Households.
 - g. Subscriber shall not, directly or indirectly, conduct any promotional activity or advertisement at the Panel Households, for any reason whatsoever.
 - h. Subscriber agrees that it shall inform BARC immediately, in writing, at email id: ceo@barcindia.co.in if it comes to the knowledge of the Subscriber that any person or entity has approached and/or is offering any service that jeopardizes BARC's Panel Household security or any entity or individual is or has indulged in Viewership Malpractice. In the event Subscriber

approaches or makes any effort to approach any Panel Household, directly or indirectly, then BARC shall be entitled, at its sole discretion to take necessary steps set out in the Code of Conduct.

- i. Subscriber shall provide all such information as may be required by BARC for the purpose of computing the License Fee.
 - j. Subscriber shall adhere to all the policies of BARC, including the Code of Conduct, and the Fair Usage Guidelines as provided on the official website of BARC or as intimated by BARC to the Subscriber and BARC shall have the right to change such policies or the Code of Conduct from time to time, as it may deem necessary. Subscriber undertakes that it shall adhere to all such changes.
 - k. Subscriber undertakes to provide the actual advertising revenues (accrued as well as received) for the previous financial year, no later than December 31 of the current year and such revenues will be duly certified by the statutory auditors of the Subscriber.
- ii. The rights and obligations of BARC are:
- a. BARC will ensure that it has all the necessary expertise, knowledge and the requisite skills to provide the Licensed Data as per the terms contained herein;
 - b. During the Term and post termination of the Agreement BARC shall be entitled to use the Subscriber's logo for its business promotional activities or any other non-commercial activities, in the manner pre-agreed with the Subscriber.
 - c. BARC shall provide the required installation and training guide for the Licensed Software to Subscriber, which the Subscriber shall access through Login or Remote Login only.
 - d. BARC is authorised to tabulate and share the audience measurement data in respect of the Channels with BARC's subscribers, for playout monitoring, during the Term and in accordance with the provisions of this Agreement. Subscriber hereby permits BARC to use the video and/or textual data from the Channels either directly or through its authorised technology partners for purposes including spot monitoring, program ad monitoring and any other services that BARC deems fit, during the Term.
 - e. Subscriber hereby grants permission to BARC to monitor its Channels, during the Term subject to and in accordance with the provisions of this Agreement.

9. CONSIDERATION

- i. In consideration of the license granted hereby, Subscriber shall pay to BARC such license fee, as will be set out in the SOW ("**License Fee**").

- ii. The payment terms applicable for the License Fee shall be set out in the SOW. Subscriber understands and agrees that in the event of delay in payment of the License Fee beyond the periods stipulated in the SOW, then without prejudice to BARC's right to terminate this Agreement, Subscriber shall be required to pay such interest, as set out in the SOW, which will be applicable from the due date of payment till the actual date of payment.
- iii. The License Fee is exclusive of any Goods and Services Tax("GST") and or any other similar succeeding tax or any other applicable statutory tax, which shall be borne by the Subscriber in addition to the License Fee. The Subscriber shall always comply with the applicable GST laws.
- iv. The Subscriber shall be entitled to use the Licensed Data (received during the Term of this Agreement), post termination or expiry of this Agreement for the Purposes, upon payment of annual fee ("**Past Data Fee**"). For the purpose of the Agreement "**Past Data Fee**" will be calculated at 15% of annual License Fees for the last 12 months of subsistence of an SOW (or on a pro rata basis if the last SOW was in subsistence for a shorter period). For avoidance of doubt, it is clarified that the Past Data Fee shall be payable only in the event of termination or expiry of this Agreement.
- v. The Parties have agreed that BARC shall be entitled to re-negotiate (increase or decrease) the License Fee during the Term based on changes in number of Panel Households and/or changes in cost to be incurred by BARC in obtaining the Licensed Data, or any changes to be carried out in accordance with the instructions of board of directors of BARC. The revised License Fee shall be applicable from the date stipulated by BARC.
- vi. All payment shall be made in Indian Rupees. Subscriber shall make payments under this Agreement in the name of "Broadcast Audience Research Council" payable at Mumbai on the due date or by way of bank transfer, as per the bank details mentioned below:

Bank Details:

Name of Bank : Kotak Mahindra Bank Ltd
Address : Veer Mahal CHS Ltd, Shop No.9, 10 & 11 Gr Floor, Dr. Bababsaheb Ambedkar Road, Opp. Bharatmata Cinema, Lalbaug, Mumbai - 400 012.
Branch : Parel
Current A/c no : 2012181777
IFSC code : KKBK0000640

- vii. Subscriber shall be entitled to deduct only the applicable withholding tax on the License Fee, before paying the same to BARC, as per the provisions of the Income Tax Act, 1961. Subscriber shall provide BARC with the requisite TDS certificates in time under the provisions of the Income Tax Act, 1961. Subscriber shall be required to provide the tax deduction certificate (TDS) evidencing such deduction. The TDS certificate will be provided within 30 days of each payment or before the end of the financial year if it falls before the 30 days of a payment being made or as required by law, whichever is earlier.

10. REPRESENTATIONS AND WARRANTIES

- i. The Parties hereby represent and warrant as follows:
 - a. Good title: They have the full power and absolute authority to enter into this Agreement;
 - b. No Disability: They are not under any disability, restriction, or prohibition, whether legal, contractual, or otherwise, which shall prevent them from performing or adhering to any of their obligations under this Agreement, and have not entered into and shall not enter into any agreement that may violate this Agreement or adversely affect the performance of this Agreement;
 - c. Litigation: No litigation, arbitration, or administrative proceedings are threatened, or to the knowledge of the Parties, pending, which call into question the validity or performance of their obligations under this Agreement;
 - d. Consents/Permissions: All authorizations, approvals, consents, licenses, exemptions, filings, and other matters, official or otherwise, required or advisable in connection with the entry into, performance, validity, and enforceability of this Agreement and the transactions contemplated hereby have or shall be obtained or effected in a timely manner;
 - e. Compliance with Applicable Laws: Each Party shall strictly comply with all Applicable Laws;
 - f. Use of intellectual property rights: Each Party shall adhere to the requirements and stipulations of the other Party relating to the use of the respective Party's logo and other intellectual property owned or licensed for use;
 - g. As a material inducement to BARC to enter into this Agreement, Subscriber further undertakes, warrants, represents and agrees with BARC as follows:

- i. It is aware that all the Licensed Data provided by BARC will be "AS IS" and "AS AVAILABLE" and without any warranty, express, implied, statutory, or otherwise, regarding its accuracy or performance with respect to the target demographics and sample size of the population traced by BARC.
- ii. Subscriber shall be solely responsible for the interpretation of the Licensed Data and it shall not hold BARC responsible in any manner for the same.
- iii. Subscriber is aware and acknowledges that the Licensed Data being statistical data can at all times have a certain amount of relative statistical error and in the event of any such error, Subscriber shall not hold BARC responsible.
- iv. Subscriber is aware that BARC shall be entitled to obtain Licensed Data for the Channels only on the basis of the Watermark.
- v. Subscriber is aware that BARC shall be entitled to change the minimum thresholds and other parameters for arriving and/or reporting the Licensed Data, at the sole discretion of BARC and shall provide a written intimation to the Subscriber of such change.
- vi. Subscriber undertakes to provide the actual advertising revenues (accrued as well as received) for the previous financial year.

11. INTELLECTUAL PROPERTY RIGHTS

- i. BARC or its licensors, as the case may be, shall solely and exclusively own and control all the Intellectual Property Rights in the Licensed Data and the Licensed Software for perpetuity worldwide. BARC's rights includes the right to reproduce the Licensed Data and the Licensed Software either on its own or as a collective work, publish it through any means, media or technology existing or in the future, make copies thereof, translate or adapt the same at their sole discretion.
- ii. Except as otherwise set forth herein, all right, title and interest in and to all, (i) registered and unregistered trademarks, service marks and logos (including all goodwill associated with any trademarks or trade and business names); (ii) copyright, copyright applications, and copyrightable ideas, and/or concepts, moral rights, databases, domain names, and including all registrations and applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world; (iii) trade secrets, proprietary information, and know-how; (iv) all divisions, continuations, reissues, renewals, and extensions thereof now existing or hereafter filed, issued, or acquired; (v) registered and unregistered copyrights including, without limitation, any forms, images, audiovisual displays, text, Licensed Software; (vi) any patents, registered designs, design rights; and (vii) all other intellectual property, proprietary rights or other rights related to intangible property which are used, developed, comprising, embodied in, or practiced in connection with BARC ("**Intellectual Property Rights**") are owned by BARC or its licensors, as the case may be, and Subscriber

agrees to make no claim of interest in or ownership of any such Intellectual Property Rights. Subscriber acknowledges that no title to the Intellectual Property Rights is transferred to Subscriber, and that Subscriber does not obtain any rights, express or implied on the Intellectual Property Rights. To the extent that Subscriber creates any derivative work (any work that is based upon one or more preexisting versions of a Licensed Data provided to Subscriber, such as an enhancement or modification, revision, translation, abridgement, condensation, expansion, collection, compilation or any other form in which such pre-existing works may be recast, transformed or adapted) such derivative work shall be owned by BARC and all right, title and interest in and to each such derivative work shall automatically vest in BARC for all times. BARC shall have no obligation to grant any right in any such derivative work to Subscriber and shall be entitled to require Subscriber to cease and desist from using or permitting use of the same at its sole discretion.

- iii. Subscriber agrees that nothing in this Agreement shall be deemed to be a license or an assignment in favour of the Subscriber of any Intellectual Property Rights and the Subscriber shall not acquire any right, title or interest in the Intellectual Property Rights or any part thereof. The Subscriber is only entitled to the permitted use of the Intellectual Property Rights for the Purpose in the manner set out herein.

12. RESTRICTIONS ON SUBSCRIBER

- i. Subscriber shall not be entitled to grant, sub-license, assign or otherwise transfer, by contract, operation of law, or otherwise, license, any of the Licensed Data, or the obligations or rights granted to it hereunder or under the SOWs.
- ii. Subscriber shall not misuse, tamper with, reverse engineer and/or manipulate Licensed Data and/or the Licensed Software, in any manner whatsoever.
- iii. Neither Subscriber nor its representative, employee, agent shall copy, make derivative works, perform, display, make or otherwise use the Licensed Software, in whole or in part, alone or in combination with any other technology, whether such other technology is owned by the Subscriber or a third party.
- iv. Subscriber shall not offer for sale, sell and/or distribute the Licensed Software or Licensed Data, in whole or in part, alone or in combination with any other technology, whether such other technology is owned by the Subscriber or a third party.

- v. Any use, alteration, copying, translation, reproduction, adaption of the Licensed Data by Subscriber or its representatives, nominees, etc., in any manner whatsoever shall amount to infringement of Intellectual Property rights of BARC.
- vi. In the event Subscriber discloses the analysis based on Licensed Data or is desirous of using the analysis of the Licensed Data for promotional purposes pertaining to the Channel(s) in the public domain, the same shall at all times be mentioned in absolute numbers and not percentages and shall at all times be based on the following parameters which are disclosed in such promotional material. The font size and the proportion of the disclosure as stated below should be clearly visible and readable along with information/data provided and, in the event of any discrepancy, BARC shall have the right to require the Subscriber to correct the same:
 - a. Placement of legend/credit on each promotional material "The source of information is BARC".
 - b. the period of analysis,
 - c. the markets for the analysis,
 - d. the day-parts, and
 - e. the target-group.
- vii. Subscriber shall not copy, alter, translate, reproduce, adapt the content of other subscribers provided to it by BARC and the Subscriber shall ensure that it undertakes all measures to ensure that there are no instances of theft, piracy, copying or unauthorized reproduction of such content in any format whatsoever. Subscriber shall ensure that there is no infringement of the intellectual property rights in relation to such subscriber content. If any infringement occurs, the Subscriber shall undertake prompt and appropriate action to protect the content and to report the matter to BARC in writing within 24 hours of such event.

13. SUSPENSION OF RATINGS

- a. In the event the Subscriber engages in any Viewership Malpractice, BARC shall be entitled to suspend the Ratings of the Subscriber as set out in the Code of Conduct and the Subscriber shall adhere to the findings and decisions of the Disciplinary Committee.

14. DATA PROTECTION AND LAW ENFORCEMENT

- i. The Subscriber shall not do, or cause or permit to be done, anything which may cause or otherwise result in a breach by BARC of Applicable Law in connection with the processing of Personal Data.

- ii. Where BARC is legally required to provide assistance to a law enforcement authority the Subscriber agrees that it shall promptly provide all reasonable assistance to BARC. A breach of any term of this Clause shall be deemed a material breach.

15. TERMINATION AND CONSEQUENCES THEREOF

- i. The agreement will stand terminated by BARC in the event the Subscriber:
 - a. files for bankruptcy or protection from its creditors or has a petition filed against it which has been admitted by a Court; or
 - b. breaches any provision of this Agreement and/or the Code of Conduct, policies and/or violates Applicable Laws and/or breaches Subscriber's representations and warranties made anywhere in this Agreement, or at any time fails, neglects or refuses to fulfill any of its obligations hereunder; or
 - c. fails to provide the advertising revenue details; or
 - d. Commits an act, which, brings BARC into public disrepute, contempt, scandal or ridicule; or
 - e. Fails to or refuses to adhere to the decisions of the Disciplinary Committee; or
 - f. Fails to make timely payment of the License Fee under the SOW and fails to cure such breach within 15 (fifteen) days of being notified by BARC of such breach in writing.
- ii. BARC shall be entitled to terminate this Agreement without assigning any specific reason, pursuant to a written notice of 90 (ninety) days to the Subscriber.
- iii. In the event of the breaches as set out in this Agreement:
 - a. BARC shall have the right to disallow the Subscriber's access to the Licensed Data and Licensed Software and lock the Login and Remote Login.
 - b. BARC shall delete/uninstall the Licensed Software from all the terminals of Subscriber.
 - c. The License Fee paid till the date of termination shall be evaluated and Subscriber shall be required to pay the due amounts, if any, payable to BARC, within 30 days along with applicable interest at set out in the SOW, except where termination is due to reasons attributable to BARC. However, in the event that the License Fee paid to BARC is in excess of the amount of License Fee actually payable, BARC shall within 30 days refund such excess amount to Subscriber.

- d. If Subscriber wishes to continue to use the Licensed Software then it shall be liable to pay the annual License Fee for the usage and maintenance of the Licensed Software. However, such license to use the Licensed Software shall not entitle Subscriber to access the Licensed Data generated by BARC. The License Fee for License Software shall be mutually agreed between the Parties, which shall be payable in advance.
- e. Subscriber shall be required to pay all the amounts due to BARC immediately, alongwith applicable interest.
- f. In the event of termination of this Agreement due to the decision of the Disciplinary Committee, then in addition to the other consequences set out in the Code of Conduct and rights and remedies available to BARC, the Subscriber shall also be required to pay liquidated damages, being a genuine and reasonable pre-estimate of the loss and damage that BARC will suffer due to the Viewership Malpractise committed by the Subscriber. Such liquidated damages shall not be in the nature of penalty.

16. CONFIDENTIALITY

- i. Parties agree to keep the Confidential Information strictly confidential at all times, during the Term and after the expiry or earlier termination thereof. Subscriber's relationship with BARC and its agencies and all terms hereof shall be kept confidential (except from the Parties' respective legal and financial advisors) until such time as BARC discloses the same in a formal press announcement. It is agreed and clarified that the pricing offered by BARC shall always be treated as Confidential Information and any disclosure to any third party shall require BARC's prior written approval. However, the financial information of any kind whatsoever shared by Subscriber with BARC can be shared by BARC to comply with any law, order, regulation or ruling applicable to any party without any prior intimation to the Subscriber. This clause shall survive termination.
- ii. Any non-public proprietary information relating to the Licensed Data, Licensed Software, business, marketing plans, and policies of BARC and/or its licensors, suppliers or customers, learned of, discovered by or supplied to Subscriber in any form in the course of performing hereunder shall be deemed to be confidential and proprietary information and the exclusive property of BARC. During and after the Term of this Agreement, Subscriber agrees not to use any confidential and proprietary information of BARC for any purpose other than in furtherance of the Subscriber's obligations under this Agreement and not to disclose such information to any third party. The obligations of this section shall survive the expiration or earlier termination of this Agreement.
- iii. The obligations of confidentiality shall not apply to any information that:
 - (a) Was developed independently by the Parties;

- (b) Was known to the party prior to its disclosure by the disclosing party;
- (c) Has become generally available to the public (other than by virtue of its disclosure by the receiving party);
- (d) May be required in any report, statement or test submitted to any governmental or regulatory body;
- (e) May be required in response to any summons or subpoena or in connection with any litigation, which can be disclosed by BARC. It is clarified that the Subscriber may respond to any summons or subpoena or in connection with any litigation only after giving prior written notice to BARC about such disclosure; or
- (f) May be required to comply with any law, order, regulation or ruling applicable to any party hereto, the other Party shall be informed as early as practicable after such disclosure(provided that this is not in contravention of Applicable Law/rules/guidelines/).

The provisions of this clause shall survive the expiration or termination of this Agreement.

17. Indemnity

- i. Subscriber agrees to unconditionally and fully indemnify and keep BARC indemnified against all losses, liabilities, claims, damages, costs and expenses (including attorney fees) incurred by BARC, disbursements made by BARC including pursuant to any action taken against BARC and/or to which BARC is made party in any proceeding before any Court or otherwise, pursuant to a breach of this Agreement or negligence by the Subscriber or a claim of any such breach by a third party including by or through any other person claiming through Subscriber.
- ii. Subscriber further undertakes that within 2 (two) days of receiving any intimation from BARC invoking the indemnity clause, Subscriber will take all steps to defend BARC, at Subscriber's cost, against all such actions and unconditionally agrees to reimburse all losses, liabilities, claims, damages, costs and expenses (including attorney fees) incurred by BARC, and disbursements made by BARC.
- iii. Subscriber also agrees and undertakes that Subscriber shall not make any claim against BARC under any circumstance, whether directly or through any other entity, for providing the agreed services and/or Licensed Data and/or the Licensed Software under this Agreement.

- iv. The maximum aggregate liability of BARC, including indemnities, damages, costs, expenses, claims, etc. arising under this Agreement, for any reason whatsoever arising out of or related to this Agreement, shall be limited up to an amount equivalent to the License Fee received by BARC till the date when such liability arises.
- v. Clauses 17 (i) to 17 (iv) shall survive the termination or expiration of this Agreement.

18. Force Majeure

- i. Non performance of any obligation under this Agreement as a result of occurrence of an Event of Force Majeure event shall not constitute a breach on the part of the affected Party and the Parties shall, as soon as may be reasonably possible, resume compliance of obligations as though the Force Majeure event had not occurred.
- ii. However, if the Event of Force Majeure or disruption in compliance of obligations by the Parties due to the Event of Force Majeure continues for a period beyond 60 (sixty) calendar days from the date of Commencement of the Event of Force Majeure, the non-affected Party shall be entitled to terminate this Agreement.
- iii. In the Event of Force Majeure, the Party claiming Force Majeure shall be obliged to inform the other party of the same in writing on or before the expiry of 10 (ten) calendar days from the Commencement of the Event of Force Majeure. Such notice shall contain information about the date on which the Event of Force Majeure event started and the anticipated duration of such event.
- iv. The Subscriber shall be required to pay BARC all amounts due till the date of occurrence of the Event of Force Majeure.

19. Assignment

Subscriber shall not assign or transfer or attempt to assign or transfer this Agreement or any of its rights or obligations hereunder to any third party.

20. Relationship of Parties

Parties are and shall remain independent contracting parties with respect to each other, and nothing in this Agreement shall be construed to place the Parties in the relationship of partners, joint

venture, fiduciaries or agents or association of persons nor will any similar relationship be deemed to exist between the Parties. None of the Parties is granted any right or authority to assume or to create an obligation or responsibility, express or implied, on behalf of or in the name of the other or bind the other in any manner whatsoever. BARC shall not be held responsible or liable to Subscriber or to any third person for any expense incurred by Subscriber in connection with this Agreement unless specifically set forth in this Agreement.

21. Modification and Waiver

No waiver of any provision of this Agreement shall be valid or binding unless in writing and executed by the Parties. No waiver by any Party of any breach, or the failure of either Party to enforce any of the terms and conditions of this Agreement, shall affect or limit that Party's right to enforce and compel compliance with all the other terms and conditions of this Agreement or further occurrence of the same default which is waived, or to terminate this Agreement according to its terms. No modification or amendment of any provision of this Agreement shall be valid or binding unless (i) executed and delivered by the Parties hereto in writing subsequent to the date hereof, (ii) it must specifically refer to this Agreement, and (iii) it must specifically state that it is intended to, and shall take precedence over, this Agreement.

22. Invalidity or Illegality

In the event any provision of this Agreement is declared to be void, invalid or unlawful by any court or tribunal of competent jurisdiction, such provision shall be deemed severed from the remainder of this Agreement and the rest of this Agreement shall remain in full force and effect. The Parties shall undertake to replace the invalid, ineffective, or unenforceable provisions with valid, effective, and enforceable provisions, which, in their commercial effect approximate as closely as possible the intentions of the Parties as expressed in the invalid, ineffective, or unenforceable provisions.

23. Notices

All notices given hereunder shall be in writing and shall be deemed to have been duly given if addressed or sent in writing to the Parties at the registered addresses of the Parties and facsimile numbers or to such other additional address or facsimile number as any Party shall provide to the other in writing.

24. Counterparts

The Parties may execute any number of counterparts to this Agreement, each of which shall be an original instrument, but all of which taken together shall constitute one and the same Agreement.

Signed facsimile copies of this Agreement shall bind the Parties to the same extent as original documents.

25. Entirety

This Agreement, constitutes the entire understanding and agreement between the Parties regarding the subject matter of this Agreement, and supersedes all prior or contemporaneous agreements, oral or written understandings, negotiations or communications (including all previously signed EULAs) made between the Parties relating to such subject matter.

26. Jurisdiction

Each Party irrevocably submits to the exclusive jurisdiction of the courts of Mumbai over any dispute, controversy or claim (including any question regarding its existence, validity or termination) arising under or in connection with the Agreement

27. Governing Law

The construction, validity and performance of the Agreement and all non-contractual obligations arising from or connected with the Agreement shall be governed by the laws of the Republic of India.

28. Reliefs BARC shall be entitled to

BARC shall, at all times during the Term and thereafter, without prejudice to any other legal rights or remedies it may have, be entitled to seek injunctive and other equitable relief to prevent or curtail any actual or threatened breach by the Subscriber of any of the provisions under this Agreement and Subscriber waives any objection to such rights of BARC. BARC shall be entitled to claim damages for any unauthorized use of Licensed Data and License Software after the expiry or earlier termination hereof.

29. Survival Provisions

- i. Neither the expiration nor termination of this Agreement shall affect such of the provisions of this Agreement that expressly provide that they shall operate after such expiration or termination.
- ii. Parties have caused their respective duly authorized representatives to execute this Agreement.

30. Stamp Duty

Any stamp duty payable on this Agreement shall be borne by the Parties in equal proportion, and BARC shall keep the original of the Agreement and the Subscriber shall keep a counterpart. It is also agreed by the Parties that the Subscriber shall initially pay the entire stamp duty on this Agreement and BARC shall reimburse its 50% share to Subscriber within thirty (30) days from the date of receipt of the original Agreement by BARC.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THESE PRESENTS THE DAY AND YEAR FIRST INDICATED ABOVE

SIGNED AND DELIVERED)
BY THE WITHIN NAMED "**BARC**")
BROADCAST AUDIENCE RESEARCH COUNCIL)
BY THE HAND OF)
MR. _____)
(AUTHORIZED SIGNATORY))
PURSUANT TO THE RESOLUTION PASSED BY)
THE BOARD OF DIRECTORS)
ON THE [] DAY OF [] 2019)

SIGNED AND DELIVERED)
BY THE WITHIN NAMED "**Subscriber**")
(Name of Subscriber _____))
BY THE HAND OF)
MR./Ms.)
(AUTHORIZED SIGNATORY))
PURSUANT TO THE RESOLUTION PASSED BY THE)
BOARD OF DIRECTORS)

ANNEXURE A

CODE OF CONDUCT (Part I)

The Subscriber unconditionally agrees that in the event there is any violation of this Code of Conduct by the Subscriber, in whole or in part, BARC shall be entitled to terminate the Agreement executed between BARC and Subscriber. This Code of Conduct shall at all times form a part of the Agreement executed between BARC and Subscriber. Subscriber shall be required to adhere to the following:

- i. The Licensed Data is to be utilized by the Subscriber only for the Purpose.
- ii. Neither Subscriber, nor any of its employees, agents, contractors or any person on behalf of any of them shall make any attempt to jeopardize in any manner the confidentiality of the particulars of Panel Households in any manner whatsoever.
- iii. Subscriber unconditionally undertakes that it shall not directly or indirectly (including through any person or entity) attempt in any manner to discover/identify the particulars of Panel Households, and if information regarding Panel Households becomes available to them they further unconditionally undertake not to use this information for any purpose whatsoever and further unconditionally undertake to promptly inform BARC about the same.
- iv. Subscriber is expressly prohibited from and unconditionally undertakes and agrees to not, directly or indirectly contact any member of a Panel Household.
- v. Subscriber undertakes not to commit any act that amounts to a Viewership Malpractice.
- vi. Subscriber acknowledges and agrees that the integrity of the Licensed Data depends on strict adherence to the aforesaid conditions and abiding by the aforesaid undertakings, as influencing any Panel Households or any of the members of Panel Households to view or not view any Channel distorts the integrity of the audience measurement system operated by BARC, and adversely affects the ecosystem.
- vii. Subscriber shall be required to disclose the true and correct net advertising revenues, accruing/accrued to Subscriber during each quarter of the Term and/or any other information required by BARC to compute the License Fee. BARC shall have the right to audit the accounts of the Subscriber in respect of such advertising revenues received by the Subscriber by engaging an internationally reputed accounting firm at any time during or after the Term. The costs of the audit shall be borne by the Subscriber. In the event of any discrepancy being revealed in the amounts reported by Subscriber and the amounts revealed in the audit, Subscriber shall be required to pay the differential amount alongwith interest calculated at 18% p.a. from the due date the payment ought to have been made till the date of receipt of the amount by BARC.
- viii. Subscriber shall give BARC and its authorized personnel, full access (physical and/or remote) to Subscriber's premises where the Licensed Software is installed.

- ix. Subscriber agrees to assist, help and co-operate fully with BARC and its authorised personnel and promptly make available information as may be required by BARC in relation to the Licensed Data.
- x. Subscriber agrees it shall not:
 - a. Adapt or modify the Licensed Software and/or the Licensed Data in whole or in part, or in any way allow third parties to do so;
 - b. Conceal or remove any title, trademark, copyright, proprietary or restricted rights notices contained in the Licensed Software and/or the Licensed Data;
 - c. Use any archival copies of Licensed Software (or allow anyone else to use such copies) for any purpose other than to replace the original Licensed Software in the event it is destroyed or becomes defective;
 - d. Disassemble, decompile or "unlock," reverse engineer, or in any manner decode Licensed Software and/or the Licensed Data for any reason in whole or part or in any way allow any third party to do so;
 - e. Re-sell or grant any rights to third parties in the Licensed Software or the Licensed Data, nor lease, time-share, lend or rent Licensed Software or the Licensed Data.
- xi. Subscriber shall include appropriate legends and proprietary notices appearing on the Licensed Software and the Licensed Data and such other legends and proprietary notices displaying the ownership of BARC on all copies, including any archival copies of the Licensed Software and the Licensed Data, as may be required by BARC.
- xii. Neither SUBSCRIBER, nor its employee, agent, contractor or any person shall switch off the Watermark at any point in time during the Term. In the event the watermark is switched off by SUBSCRIBER, BARC shall be entitled to forthwith deactivate SUBSCRIBER's Login, Remote Login for a period of 6 to 12 months, to be determined by BARC in its sole discretion, and SUBSCRIBER shall not be entitled to access the Licensed Data in any manner whatsoever

CODE OF CONDUCT FOR REDRESSING VIEWERSHIP MALPRACTISES (Part II)

Introduction

Broadcast Audience Research Council, India ("**BARC**") is an industry body established to design, commission, supervise and own an accurate, reliable and timely television audience measurement rating system ("**Ratings**") for India, which can be utilized by Broadcasters, Advertisers, and Advertising and Media agencies (collectively referred to as "**Subscribers**"). All existing and prospective Subscribers of BARC who subscribed/subscribes to Licensed Data (as defined under the EULA and/or SoW) and ratings are at all times required to adhere to and comply terms and conditions of End Use License Agreement (EULA), Statement of Work (SoW), Code of Conduct(s) and Policies of BARC including its amendments which will be uploaded by BARC on its website from time to time.

Currently BARC is the world's largest such television viewing measurement system, measuring urban and rural television viewing behaviour.

Objective:

BARC is committed to provide a Rating system that is fair, transparent and free of any influences and malpractices. Any influence or malpractice of ratings leads to financial, reputational and other losses to BARC, its subscriber and the entire industry as a whole, as it is widely used by all relevant stakeholders. BARC and its stakeholders, the Indian Broadcasting Foundation (IBF), the Indian Society of Advertisers (ISA), and the Advertising Agencies Association of India (AAAI), have a zero-tolerance policy towards any attempts to influence the integrity of the Ratings.

BARC is required to supervise and maintain a reliable and transparent Rating system, which can be achieved only with the complete cooperation of and adherence to the terms of the EULA, SoW, Code of Conducts and Policies of BARC by the Subscriber.

Panel households form the core of BARC's Rating system. Panel Households means the persons in selected households within the Republic of India, who are used as the reference audience for BARC's audio-visual audience measurement services, and whose house will be equipped with one or more '**Meters**' (BARO Meters or any variant of that, as may be called).

To offer a level playing field to all the Subscribers, and to provide them with fair Ratings, BARC shall on an ongoing basis investigate any abnormal viewership data recorded by the Meters installed by BARC at Panel Households. Further BARC shall make objective and system driven correction of abnormal spikes or falls in any Panel Household(s)'s viewership pattern.

BARC as an industry body is bound to ensure the Secrecy and Privacy of the Panel Homes under the guidelines issued by Ministry of Information and Broadcasting for Television Rating Agencies in India ("**MIB Guidelines**"). The guidelines mandate that secrecy and privacy of the panel homes must be maintained by BARC and in this

context BARC can issue Voluntary Code of Conduct and policies to be followed by all the stakeholders / subscribers /TV channels / parties obtaining services from BARC under EULA.

Hence the objective is to prohibit, discourage, prevent and eliminate malpractices related to and resulting in tampering with the Ratings by influencing /or attempted influence on the Panel Households.

1. Viewership Malpractice(s)

“Viewership Malpractice(s)” **shall means** any activity or abstinence from any activity or a promise to do or abstain from doing any activity whether individually or in a group of persons; whether directly or indirectly; with an aim of manipulating or altering or tampering (i) the viewership pattern(s) and / or (ii) habits of a Panel Household(s), and /or (iii) the viewership data and / or (iv) any of the process leading to generation of Ratings , which does or may potentially result in altering the Ratings of any television channel or television programme or any content or an advertisement or any saleable media content in any manner or in a manner which is in breach of a EULA or BARC policies **and includes:**

- a. Attempt to and/or obtain details of the Panel Households, like address, member names, and any/all related information etc.
- b. Attempt to and/or bribe/influence a Panel Household to watch or not to watch a television programme or Channel or any content;
- c. Attempt to and/or bribe any of the staff appointed by BARC or its agents, service provider or any other entity in possession of any data relating to Panel Households or Ratings.

2. Vigilance Team

Vigilance Team means an in-house team of BARC in charge of investigating Viewership Malpractices.

3. BARC Disciplinary Council

BARC has constituted a Disciplinary Council to address concerns related to Viewership Malpractices and recommend penalties.

The BARC Disciplinary Council shall be a six (6) Member body consisting of a Chairperson and 5 other Members. The Chairperson and the Members will be appointed by Board of Directors of BARC (**“BARC Board”**) by a majority decision.

4. Constitution of the BARC Disciplinary Council:

The BARC Disciplinary Committee (BDC) will consist of following members:

- a. Chairperson - Retired Judge of the Supreme Court or of a High Court
- b. One Representative from the Indian Broadcasting Foundation

- c. One Representative from the Indian Society of Advertisers
- d. One Representative from the Advertising Agencies Association of India
- e. One person who is well versed in the field of statistics, technology, broadcasting and the working of BARC
- f. One person who has held a senior position not below the rank of Commissioner or equivalent in any Law Enforcement authorities such as Police / CBI.

5. Terms and Conditions of BDC:

- a. The Chairperson and other Members, excepting IBF, ISA, AAAI Members (Stakeholder Members), shall hold office for a period of three (3) years. However, the term of IBF, ISA, AAAI Members shall be of two (2) years.
- b. The process of appointment of new BDC Member shall be initiated by the BARC Board at least 30 days prior to the expiry of the term of the concerned BDC Member. Provided also that where a person nominated as a Member of the BDC is found unfit to hold office as Member of the BDC, the BARC Board may remove such person from being Member and thereupon, such Member shall forthwith cease to be a Member of the BDC.
- c. All Members including the Chairperson nominated in the BDC shall be eligible for re-nomination after expiry of his/her tenure of 2 years or 3 years as applicable.
- d. The Chairperson and any other Member may resign from BDC by giving thirty (30) days notice in writing to the BARC Board, and upon such resignation being accepted by the BARC Board and after completion of the notice period of thirty (30) days, the Chairperson or the Member shall be deemed to have vacated his/her office.
- e. Any vacancy arising as above or otherwise shall be filled, as soon as may be, by nomination in the same manner in which the Member vacating office was nominated.

6. Meetings of the BARC Disciplinary Council [BDC]:

- a. The BDC shall ordinarily meet once in a month or at any other frequency as required but the Chairperson may at any time call an extraordinary meeting, if he considers it necessary to do so.
- b. Meetings of the BDC shall ordinarily be held at BARC's office in Mumbai.
- c. The BDC meetings can also be conducted entirely through video conferencing, WebEx or any other suitable method as per the sole discretion of BARC.

7. Quorum:

At every meeting of the BDC, four (4) members including the Chairperson shall form a quorum.

8. Chairperson of the BDC:

Meetings of the BDC shall be presided over by the Chairperson or in his absence by a member elected by the members present from among themselves.

9. Decision to be decided by majority of Votes:

Every decision before the BDC shall be decided by majority of votes and in the case of equality of votes, the Chairperson or the member elected to preside shall have a second or casting vote.

10. Who can complain and Where?

- a. Subscribers, Panel Household members, any concerned agencies and any independent entity can register a complaint with BARC Vigilance Team.
- b. The complaint must relate to Viewership Malpractice as defined under this Code and shall be e-mailed to : vigilance@barcindia.co.in. BARC Vigilance Team shall investigate such complaints as may be received.
- c. BARC can also initiate *suo moto* investigation into the activities of any Subscriber or TV channel where BARC reasonably believes that there may have been a Viewership Malpractice or violation of the EULA , SOW, violation of Code of Conduct and policies of BARC.

11. Investigation by BARC's Vigilance Team (Secretariat):

- a. Upon identification of abnormal viewership data recorded by the Bar-o-meters at Panel Households or upon receipt of a complaint regarding Viewership Malpractice, the Vigilance Team ("**VT**") will carry out an investigation and prepare an Investigation Report ("**IR**"). The IR would contain all the information collated during the investigation, including to the viewership data and other material, which could be in physical or electronic format.
- b. If the VT *prima facie* finds Viewership Malpractice to have taken place, the VT will issue a Show Cause Notice along with the IR ("**SCN**") to the Subscriber(s)/ TV Channel(s) on the official email ("**Official Email**") address provided by the Subscriber(s)/ TV Channel(s) in the **EULA and to mail id's of Subscribers which are used to communicate with BARC during normal course of business.**

- c. The Subscriber(s)/ TV Channel(s) shall have 10 (ten) calendar days from the date of receipt of the SCN by the Subscriber/ TV Channel(s) to seek electronic copies of any other relevant material and reply to the SCN within the period stipulated above.

Provided that the additional material sought by the Subscriber(s)/ TV Channel(s) is in accordance with the Policy Guidelines for Television Ratings in India, as notified by the Ministry of Information and Broadcasting, Government of India at the relevant period of time.

- d. Upon review of the reply of the Subscriber(s)/ TV Channel(s), if any received, if the VT is of the opinion that no prima facie case is made out against the Subscriber(s)/ TV Channel(s), it may close the complaint and submit a closure report to the BARC Disciplinary Council ("**BDC**") for its approval.

- i. If the BDC approves the closure report filed by the VT, it shall inform the Subscriber(s)/ TV Channel(s) of the same on the Official Email.

- ii. If, however, the VT is of the opinion that the matter requires consideration by the BDC, the VT shall submit the SCN and the reply received from the Subscriber(s)/ TV Channel(s), to the BDC.

12. Procedure to be followed by the BDC:

- a. Upon perusing the SCN and the reply thereto of the Subscriber(s)/ TV Channel(s), it will be open to the BDC to seek further information from the VT and/ or Subscriber / TV Channel(s) and / or proceed further in the matter.
- b. If the BDC, after reviewing the SCN submitted by the VT and/or after considering the explanation provided by the relevant Subscriber(s)/TV Channel, is of the opinion, that no case is made out against the Subscriber(s)/TV Channel(s), it may close the complaint and inform the Subscriber(s)/ TV Channel(s) of its decision on its Official Email.
- c. However, if the BDC is of the prima facie opinion that Viewership Malpractice has taken place, the BDC shall issue a written communication on the Official Email(s) of the Subscriber(s)/ TV Channel(s) and provide the Subscriber(s)/ TV Channel(s) an opportunity to be present for a personal hearing before the BDC on a particular date, venue and time. The BDC proceedings are in-house disciplinary proceedings and hence counsel representation is not permitted in the BDC proceedings. The Subscriber(s) / TV Channel(s) shall have a period of 14 (fourteen) calendar days to respond to the BDC if it wishes to be heard in person. However, BDC shall proceed with the matter with the SCN before it, if there is no reply received on the written communication from the relevant Subscriber(s)/ TV Channel(s).

13. Procedure for hearing

In view of the need for expeditious disposal of complaints and instances of Viewership Malpractice, the following procedure shall be adopted –

- a. The Subscriber(s)/ TV Channel(s) will not be allowed to cross-examine any of the Panel Households in order to comply with the Policy Guidelines for Television Ratings in India, as notified by the Ministry of Information and Broadcasting, Government of India and in particular clauses 5.4.1. which is reproduced as under:

"Secrecy and privacy of the panel homes must be maintained. In this context the industry body will issue a voluntary code of conduct to be followed by all stakeholders, including penal provisions for breach of the code."

- b. It will be open to members of the BDC to participate in the proceedings via video conference.
- c. The BDC will make efforts to arrive at a decision by consensus, failing which the majority view shall prevail.
- d. Post the hearing, if the BDC is of the opinion that a case is made out against the Subscriber(s)/TV Channel(s), it will decide on the course of action, to be taken against the relevant Subscriber/ TV Channel as stipulated in Clause 14 herein below and communicate the same in writing ("**Award / Order**") on the Official Email.
- e. The quorum shall pass the award/order and it shall be signed by the Chairman digitally and/or by signing the physical copy. The signed Award/Order shall be pronounced with or without the same members that formed the quorum.

14. Scheme of sanctions

The Disciplinary Council can initiate any of the following actions:

- a. First Offense: Written warning to the relevant Subscriber or a penalty upto Rs.25 Lakh, or both, to be complied within 30 (thirty) calendar days of receipt of the BDC's Order by the relevant Subscriber/ TV Channel;

- b. Second Offense: Written warning to the relevant Subscriber; Subscriber's name to be published in the Watch List on the Website of BARC for a period of 4(four) weeks and a penalty upto Rs.50 Lakh to be complied within 30 (thirty) calendar days of receipt of the Written Warning by the relevant Subscriber;
- c. Third Offense: Written warning to the relevant Subscriber(s)/TV Channel(s); Subscriber(s)/TV Channel(s) name to be published in the Watch List on the Website of BARC and one month's suspension of relevant Subscriber(s)/TV Channel(s), i.e. viewership data of the relevant Subscriber(s)/TV Channel(s)' from the subject Subscriber(s)/TV Channel(s) shall not form a part of the Ratings for one month and a penalty upto Rs.1 Crore to be complied within 30 (thirty) calendar days of receipt of the Written Warning by the relevant Subscriber(s)/TV Channel(s);
- d. Fourth Offense: Termination of the EULA with respect to relevant Subscriber(s)/TV Channel(s), BARC shall be entitled to retain and/or demand the License Fees accrued by BARC till such date of termination.
- e. Cost of investigation, Statistician, Panel Churn and BDC Proceedings:
The efforts taken by BARC to identify, monitor and evidence any violation under this Code of Conduct by a Subscriber and adjudicated by the BDC involves financial impact. If a subscriber has violated this code of conduct and confirmed by BDC under its order/award, then such subscriber shall be required to pay the cost with respect to the following:
 - 1. BARC Vigilance Investigation cost
 - 2. Cost incurred by BARC for Statistical and Data Analysis Cost including man hours spent by various teams for analyzing and preparing data
 - 3. If the household is influenced/compromised, then to maintain the confidentiality and privacy of Household's, BARC will de-install the meter(s). BARC will conduct listing study to identify new household and recruit new household. The cost of the above activities.
 - 4. The administrative and related cost to conduct Disciplinary Proceedings
 - 5. Cost of any third-party investigation agency, statistician and expert advice to ascertain and identify the panel tampering/influence

The cost of Rs.12.50 Lakh is calculated as per the table mentioned below:

S.NO	TYPE	COST in INR
1	Investigation Cost of Households	2,80,000
2	Statistical and Data Analysis Cost including man hours spent by various teams for analysing, preparing and reviewing data (starting from first level data analysis until presenting the data and analysis before BDC and providing relevant information, presentation and clarification)	4,60,000
3	Cost of deinstallation of meters from tampered house and re-installation in a new Household including listing study	1,10,000
4	BARC Disciplinary Committee Administrative Cost (Sitting fee for members, issuing notice, infrastructure, utility, stationary and related overheads).	4,00,000

BARC shall submit the cost incurred on the above to BDC which is Rs. 12.50 Lakh per case/offense which is exclusive of applicable taxes. BDC at its discretion shall also award any other cost(s) as it may deem fit for conducting the proceedings including those incurred by BARC related to this Code of Conduct apart from the above. BDC, under its order/award shall impose the cost of Rs. 12.50 Lakhs on the Subscriber who had violated this Code of Conduct and it shall be in addition to the penalties as specified under Clause 14 hereinabove.

Provided that in case Subscriber(s)/TV Channel(s) fail to comply with; the Award / Order passed by the BDC within the period stipulated under that Award / Order, the BDC can take further action against the non-compliance of the Award / Order by way of:

- a. Issuing First Warning Notice to the Subscriber(s)/TV Channel(s) providing 15 (fifteen) calendar days to comply with said Award / Order; failing which;
- b. Issuing Second Warning Notice to the Subscriber(s)/TV Channel(s) providing further 15 (fifteen) calendar days to comply with said Award / Order; failing which;
- c. Direct BARC to suspend or terminate the EULA, as required.

15. Confidentiality:

All information relating to the complaint, minutes of meetings, all proceedings, hearings, award/order shall be kept confidential subject to compliance/enforcement of these guidelines.

Annexure B
PRINCIPLES OF FAIR AND PERMISSIBLE USAGE
OF BARC INDIA RATING

As available and updated from time to time <https://barcindia.co.in/policy-updates/barc-india-guidelines-for-single-event-reporting-amended-july-2019.pdf>