

***The Centre for Study of Culture and Society
Licence Agreement***

This Deed of Licence, is made on the 24th day July 2001 Between

The Centre for Study of Culture and Society, a registered trust having its office at 466, 9th Cross Madhavan Park, 1st Block Jayanagar, Bangalore 560011 (hereinafter the “**Licensor**” which term shall include its representatives, successors and assigns) of the One Part

And

The University of California, San Diego (hereinafter the “**Licensee**” which term shall include its heirs, representatives, successors and assigns) of the Other Part,

WHEREAS

- A. The Licensor is a non-profit organisation engaged in research activities in the fields of social studies and has assembled a database of information and materials relating to Indian media more fully described in Schedule 1 to this Deed (the “**Database**”).
- B. The Licensor has agreed to grant the Licensee the right to utilise the database under and in accordance with the terms and conditions of this Agreement.

NOW THEREFORE THIS DEED WITNESSES as follows:

1. Grant of License

The Licensor hereby grants to the Licensee the right to use the Database for research, private study and/or educational purposes only. Under no circumstances shall the Licensee utilise the Database for commercial purposes or otherwise than as will be construed, either under the laws of India or the laws of the jurisdiction within which the Licensee is resident, as being fair use of the Database.

2. Consideration

- 2.1 In consideration for the grant by the Licensor of the license to use the Database, the Licensee shall pay to the Licensor an annual subscription fee, more fully described in Schedule 2 to this agreement (“**Subscription Fee**”) towards such license. The Licensor acknowledges that this Subscription fee may change from time to time and agrees to be bound by any such change, as shall be intimated to them in writing by the Licensor.
- 2.2 The parties acknowledge and understand that the Subscription Fee constitutes a true representation of the actual costs incurred by the Licensor in creating the Database as well as the estimated costs to be incurred by the Licensor in maintaining and updating the database. Under no circumstances shall the Subscription Fee be construed to represent profit or commercial gain and the parties covenant that they shall assist each other in taking all steps necessary to prove the same.

3. Intellectual Property

- 3.1 The Licensor represents and warrants that it is the sole and undisputed owner of all the rights, title and interest in respect of the macro level programming as well as the form and structure of the database. The Licensor represents that the presentation of the information comprising the Database, more particularly the keywording of the data and the creation of the search facility in order to provide easy and meaningful access to the information contained in the Database

constitutes the valuable intellectual property of the Licensor.

- 3.2 The Licensor represents that the items of information, the images, the digital records and other copyright works comprising the data contained in the database have been extracted from original works for the purpose of private study, research, criticism and review and, in their current form, amount to the fair use of the original works.
- 3.3 The Licensee understands that under the terms of the license granted to the Licensee under this Deed the Licensee shall only be permitted to utilise the Database or any of the data contained therein for private study, research, criticism and review. In the event the Licensee utilises the Database for purposes other than the aforesaid purposes, or for commercial gain, the license shall automatically stand terminated and the Licensee shall indemnify and hold the Licensor harmless in respect of any and all claims, litigation, suits or other legal proceedings filed or initiated against the Licensor in respect of such use of the Database by the Licensee.

4. Indemnification

- 4.1 The Licensor undertakes fully and effectively to indemnify the Licensee for the term of this Agreement, against all third party actions, proceedings, claims and demands against the Licensee for any infringement of copyright or other intellectual property rights, arising from the use of the database as permitted under this Agreement for research, private study, criticism, review and/or educational purposes only. PROVIDED that the Licensee promptly notifies Licensor in writing of the claim, and allows Licensor to settle, defend or any other manner interact with the third party. The Licensee also agrees to cooperate with Licensor in the defense or any related settlement negotiations.
- 4.2 If a claim as described in Clause 4. 1 is made or appears possible, Licensor may, at its option, secure for the Licensee a right to continue using the Database, or modify or replace the relevant data with equivalent non infringing information.
- 4.3 In the event of a claim being made by third party with regard to infringement by the Licensee of their copyright and other associated intellectual property rights related to the Database that would result in any civil and criminal penalties, the Licensor is entitled to undertake or impose immediate remedies to restrain any actual or apprehended infringement by the Licensee.
- 4.4 Each party shall indemnify and hold the other harmless for any losses, claims, damages, awards, penalties, or injuries incurred, including reasonable attorney's fees, which arise from any alleged breach of such indemnifying party's representations and warranties made under this Agreement, provided that the indemnifying party is promptly notified of any such claims, being subject to clause 4.1.
- 4.5 The indemnifying party shall have the right to defend such claims at its own expense. The other party shall provide assistance in investigating and defending such claims as the indemnifying party may reasonably request and have the right to participate in the defense at its own expense.

5. Term and Termination

- 5.1 This Deed shall come into force on the date hereof and shall continue in full force and effect until terminated by either party under the terms hereof
- 5.2 The Licensor may terminate this Deed at any time in the event the Licensee is in breach of any of its covenants herein contained including, without limitation, the Licensee's covenant in respect of the utilization of the Database, provided that the Licensee shall be notified of such breach and

granted at least 10 calendar days to rectify the problem, following such form of notification as has been set forth by both parties in Appendix A.

6. Confidentiality

6.1 The information exchanged between the parties under and in accordance with the terms of this Deed (including but not limited to the Database) constitute confidential and proprietary information which shall be held in trust by the receiving party. Under no circumstances shall the receiving party divulge any such information unless the same has already, and otherwise than as a result of a disclosure by the receiving party, entered the public domain or in the event such disclosure is ordered by a court of competent jurisdiction.

7. Force Majeure

If the performance by either party, of any of its obligations hereunder is prevented, restricted or interfered with by reason of fire, or other causality or accident; strike or labour disputes; war or other violence; any law, or regulation of any government; or any act or condition whatsoever beyond the reasonable control of such party (each such occurrence being hereinafter referred to as a "*Force Majeure*"), then such party shall be excused from such performance to the extent of such prevention, restriction or interference; provided, however, that such party shall give prompt notice within a period of 15 days from the date of Force Majeure occurrence and providing a description to the other party of such Force Majeure in such notice, including a description, in reasonable specificity, of the cause of the Force Majeure; and provided further that such party shall use reasonable efforts to avoid or remove such cause of non-performance and shall continue performance hereunder whenever such causes are removed.

8. Assignment.

This Deed shall not be assigned either fully or in part by any party to any third party without the consent, in writing, of the other party and only upon such terms as are mutually agreed by both the parties. In the event this Deed is assigned under the terms of this Clause, the assignees of the respective parties shall be bound by the same terms and conditions of this Deed and shall, if deemed necessary by the parties at the time of such assignment, undertake in writing to be so bound by this Deed.

9. Governing Law.

This Deed shall be governed by and interpreted in accordance with courts of competent jurisdiction.

10. Notices.

Notices shall be sent to the parties at their address mentioned on the title page hereof. Notice shall be deemed to have been served if sent by certified mail – upon receipt by the sender of the acknowledgement card or if sent by facsimile – upon receipt by the sender of the transmission record indicating that the transmission has been successfully completed.

All notices to Licensee will be transmitted via email to: *[text removed]*

All notices will be acknowledged upon receipt via e-mail.

Name of contact: *[text removed]*

Mailing address: Geisel Library - Acquisitions Dept
University of California, San Diego
9500 Gilman Drive 0175A La Jolla, CA 92093-9175 U.S.A.

Phone: *[text removed]*

Fax: [text removed]

12. Miscellaneous

12.1 Waiver

The failure, with or without intent, of any party to insist upon the performance (in strict conformity with the literal requirements) by the other party, of any term or stipulation of this Deed, shall not be treated as, or be deemed to constitute, a modification of any terms or stipulations of this Deed. Nor shall such failure or election be deemed to constitute a waiver of the right of such party, at any time whatsoever thereafter, to insist upon performance by the other, strictly in accordance with any terms or provisions hereof. All terms, conditions and obligations under this Deed shall remain in full force and effect at all times during the subsistence of this Deed except where otherwise amended or modified by them by mutual written agreement.

12.2 Entire Agreement

The parties confirm and acknowledge that this Deed shall constitute the entire agreement between them and shall supersede and override all previous communications, either oral or written, between the parties with respect to the subject matter of this Deed, and no agreement or understanding varying or extending the same shall be binding upon any party unless arising out of the specific provisions of this Deed.

12.3 Severability

12.3.1 Should any part of this Deed be declared illegal or unenforceable, the parties will co-operate in all ways open to them to obtain substantially the same result or as much thereof as may be possible, including taking appropriate steps to amend, modify or alter this Deed.

12.3.2 If any term or provision of this Deed shall be hereafter declared by a final adjudication of any tribunal or court of competent jurisdiction to be illegal, such adjudication shall not alter the validity or enforceability of any other term or provision unless the terms and provisions so declared are expressly defined as a conditions precedent or as of the essence of this Deed, or comprising an integral part of, or inseparable from the remainder of this Agreement.

12.4 Expenses

The parties shall bear their own expenses (including without limitation, attorneys' fees), in connection with the negotiation, preparation and execution of this Agreement and any amendments or other documents or instruments relating hereto and the transactions contemplated hereby.

12.5 Modification of the Deed

No amendment, modification or addition to this Deed shall be effective or binding on either of the parties unless set forth in writing and executed by them through their duly authorised representatives; and subject to obtaining requisite approvals, if any, following such execution.

IN WITNESS WHEREOF the parties have set their hand on this the __ day of ____, 19__ at

_____.

By _____
Name _____
Title _____

By _____
Name _____
Title _____

APPENDIX A:

NOTIFICATIONS

In the event that either party wishes to notify the other of a request for change of the terms, or of a breach of the covenants in the license agreement, the following methods have been agreed upon as suitable substitutes for printed, mailed documents:

Notifications to the University of California, San Diego Library can be e-mailed to

[text removed]

or faxed to the attention of

ELECTRONIC RESOURCES UNIT at *[text removed]*

or telephoned to the attention of

[text removed]

Notifications to Centre for the Study of Culture and Society can be emailed to:

admin@cscsban.org

or faxed to the attention of

[text removed]

Or telephoned to the attention of

[text removed]

In all instances, receipt of notifications in whatever format will be acknowledged by prompt return in the format the notification was received.

Schedule 1

Details of The Database

At present, the database consists of approximately 25,000 records in nine categories, as follows.

1.Human Rights/Civil Liberties

Recently launched project supported by SEPHIS. Will include civil liberties and human rights reports and documentation from various parts of India.

2.Radio/Television:

Documentation covering the history of radio and television communication from the early 1980s.

3.Print/Literature:

Documentation covering major issues and controversies in the fields of literary and news publishing from the 1980s.

4.New Media:

Essays and clippings on new technologies of communication from video to Information Technology, including satellite communications.

5.Law & Media:

Legal statutes, petitions and judgements on media, including theatre, literature and film, from the beginning of the 20th Century to the present. Collaborative venture with Indialawinfo.com (<http://www.indialawinfo.com>)

6.Culture, Politics, Society: Documentation and reportage on issues that are of relevance to contemporary cultural theory.

7.Indian Cinema Filmography:

Listing of major credits, synopses, and visual documentation on all Indian feature films. Presently covering mainly Kannada and Telugu cinema, this database will include all Indian feature films. Produced in association with Matrix Information Services, Bombay, and Anveshi, Hyderabad.

8.Theatre, Music, Performance:

Issues concerning contemporary performance theory, from the 1980s to the present.

9.Indian Film Industry:

Major issues involving the Indian cinemas, including censorship controversies, issues concerning the industrial status of the cinema.

Technical details:

The CSCS Media & Culture Archive is intended as a research tool and reference service for universities and other academic institutions with valid Internet Protocol addresses. If we list your IP address on our server, the database becomes automatically available to all those who use the IP gateway as their proxy server.

In the instances of individual researchers who are unaffiliated or affiliated to institutions without IP addresses, CSCS can make a limited number of user names and passwords available.

All documents will be available to the end-user on standard Internet browsers where they can be searched, bookmarked or downloaded onto a local hard-disk. Text is available in HTML format. Images are in .pdf format when attached, and usually in .gif or .jpeg format when inserted in the main record body.

All images have been independently retained in their original scanned version as .tif images, scanned in greyscale as either documents or as pictures, and are separately available. Scanning has been done in 200 dpi Document mode, which is the low end of the spectrum, but they are in general acceptable for most kinds of reproduction/publication.

Software: CSCS uses Lotus Domino v. 5.0 on Linux Red Hat v. 6.2.

Schedule 2:

Details of Payment:

[text removed]