

**GUIDELINES FOR OBTAINING LICENSE FOR PROVIDING  
DIRECT-TO-HOME (DTH) BROADCASTING SERVICE IN  
INDIA  
(as amended upto 6.11.2007)**

The Union Government has decided to permit Direct-to-Home (DTH) TV service in Ku Band in India. The prohibition on the reception and distribution of television signal in Ku Band has been withdrawn by the Government vide notification No. GSR 18 (E) dated 9th January, 2001 of the Department of Telecommunications.

The salient features of eligibility criteria, basic conditions/obligations and procedure for obtaining the license to set up and operate DTH service are briefly described below. For further details, reference should be made to the Ministry of Information & Broadcasting.

Following are the eligibility criteria for applicants, conditions which will apply to DTH license and procedural details :

**i) Eligibility Criteria:**

- Applicant Company to be an Indian Company registered under Indian Company's Act, 1956.
- Total foreign equity holding including FDI/NRI/OCB/FII in the applicant company not to exceed 49%.
- Within the foreign equity, the FDI component not to exceed 20%.
- The quantum represented by that proportion of the paid up equity share capital to the total issued equity capital of the Indian promoter Company, held or controlled by the foreign investors through FDI/NRI/OCB investments, shall form part of the above said FDI limit of 20%.
- The applicant company must have Indian Management Control with majority representatives on the board as well as the Chief Executive of the company being a resident Indian.
- Broadcasting companies and/or cable network companies shall not be eligible to collectively own more than 20% of the total equity of applicant company at any time during the license period. Similarly, the applicant company not to have more than 20% equity share in a broadcasting and/or cable network company.
- The Licensee shall be required to submit the equity distribution of the Company in the prescribed Proforma (Table I and II of Annexure to Form-A) once within one month of start of every financial year.

**ii) Number of Licensees:**

- There will be no restrictions on the total number of DTH licenses and these will be issued to any person who fulfils the necessary terms and conditions and subject to the security and technical clearances by the appropriate authorities of the Govt.

**iii) Period of license:**

- License will be valid for a period of 10 years from the date of issue of wireless operational license by Wireless planning and Coordination Wing of Ministry of Communications. However, the license can be cancelled/suspended by the Licensor at any time in the interest of Union of India.

**iv) Basic conditions/obligations:**

- The license will be subject to terms and conditions contained in the agreement and its schedule (Form-B)

**v) Procedure for application and grant of licenses:**

- To apply to the Secretary, Ministry of I&B, in triplicate, in the prescribed proforma (Form-A )
- On the basis of information furnished in the application form, if the applicant is found eligible for setting up of DTH platform in India, the application will be subjected to security clearance of Board of Directors as well as key executives of the company such as CEO etc. in consultation with the Ministry of Home Affairs and for clearance of satellite use with the Department of Space.

**(Amended vide order No. 8/12/2006-BP&L dated  
31.7.2006)**

- After these clearances are obtained, the applicant would be required to pay an initial non-refundable entry-fee of Rs.10 crores to the Ministry of Information and Broadcasting.
- After such payment of entry-fee, the applicant would be informed of intent of Min. of I & B to issue license and requested to approach WPC for SACFA clearance.
- After obtaining SACFA clearance, within one month of the same, the Licensee will have to submit a Bank guarantee (Form-C) from any Scheduled Bank to the Ministry of Information and Broadcasting for an amount of Rs.40 crores valid for the duration of the license.
- After submission of this Bank Guarantee, the applicant would be required to sign a licensing agreement with the Ministry of Information and Broadcasting as per prescribed proforma (Form-B).
- After signing of such licensing agreement with the Ministry of Information and Broadcasting, the applicant will have to apply to the

Wireless Planning & Coordination (WPC) Wing of the Ministry of Communications for seeking Wireless Operational License for establishment, maintenance and operation of DTH platform.

- The Licensee shall pay an annual fee equivalent to 10% of its gross revenue as reflected in the audited accounts of the Company for that particular financial year, in the manner detailed under Article -3 (License Fee) of the “Schedule to the License Agreement”
- The Licensee shall also, in addition, pay the license fee and royalty for the spectrum used as prescribed by Wireless Planning & Coordination Authority (WPC), under the Department of Telecommunications.

**vi) Arbitration Clause:**

Incase of any dispute, matter will be referred to the sole Arbitration of the Secretary, Department of Legal Affairs, Government of India or his nominee, for adjudication. The award of the Arbitrator shall be binding on the parties. The Arbitration proceedings will be governed by the law of Indian arbitration in force at the point of time. Venue of Arbitration shall be India.

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## FORM-A

### **Application form for obtaining license to set up DTH platform in Ku Band.**

The Secretary  
Ministry of Information & Broadcasting  
'A' Wing, Shastri Bhawan  
New Delhi-110 001

1.
  - i) Name of Applicant Company
  - ii) Particulars of the Directors & the Chief Executive.

a) Chief Executive

Name	Date of Birth	Citizenship and Residence	Permanent Address	Present Address

b) Other Directors.

Sl.No.		Date of Birth	Citizenship & Residence	Permanent Address	Present Address

2.
  - i) Address (Office)
    - (a) Head Office
    - (b) Regional Office
  - ii) Telephone Number (s)
  - iii) Registration details (enclose certificate of incorporation/registration)
3. Structure of Equity Capital
  - i) Authorized share capital

ii) Paid up share capital

4. Share-Holding pattern: (Enclose details as per Annexure)

i) Direct investment (as % of total paid up capital)

(a) Indian\_\_\_\_\_%

(b) Foreign\_\_\_\_\_%

Break-up of Foreign Direct Investment

Individual.....%

Company.....%

NRI.....%

OCB.....%

PIO.....%

ii) Portfolio Investments

(a) Indian.....%

(b) Foreign.....%

Break-up of Foreign portfolio Investment

FII's

NRI's

OCB's

PIO's

5. Particulars of other business/activities.

6. Particulars of the other broadcasting companies and cable network companies holding share in the applicant company along with the quantum of share holdings

Sl.No.	Name of the company	Activity (Broadcasting or Cable Network)	%age of equity holding in the applicant company

7. Particulars of equity holding of the applicant company in other broadcasting companies and cable network companies

Sl.No.	Name of the company	Activity (Broadcasting or Cable Network)	%age of equity holding by the applicant company

8. Details of DTH Space Segment , uplink earth station and ground terminal:
  - A. Space Segment of DTH Platform
    1. Name of the satellite proposed to be used
    2. GSO Orbital location
    3. Type & number of transponders to be hired
    4. Frequency band of operation : 10.95 – 11.2 GHz / 11.45 – 11.7 GHz  
(downlink)(circle appropriately): 12.2 – 12.5 GHz / 12.5 – 12.75 GHz
  5. Transponder Center frequencies:
  6. No. of TV channels in each transponder:
  7. Details of data rate, FEC, modulation, bandwidth and specific frequency range for each TV channel
  8. Satellite transmit Max. & Min. EIRP over India in dBW :  
(enclose satellite transmit antenna/ eirp gain contours over India)
  - B. Details of Uplink Station
    - DTH uplink station location:
    - Uplink frequency band (circle appropriately): 13.75 – 14 GHz / 14.0 – 14.25GHz /  
o 14.25 – 14.5 GHz
    - Uplink antenna size:
    - Uplink antenna gain:
    - Uplink EIRP (Max.):  
(Min.):
  - C. Size of downlink (Max.)  
antenna size (Min.)  
Proposed no. of channels:  
(Enclose Lease Agreement and footprint of the satellite on which the transponders are proposed to be hired)

I/We, \_\_\_\_\_ the applicant(s)  
do hereby declare that the above facts are correct in all respects.

Place : (Signature of Applicant)  
Date : Name

Office Address:

Enclosures:

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**ANNEXURE TO FORM - A**

**FORMAT FOR SHAREHOLDING PATTERN TO BE FURNISHED  
ALONG WITH APPLICATION**

**TABLE-1**

**SHAREHOLDING PATTERN OF APPLICANT COMPANY**

**M/s \_\_\_\_\_ AS ON \_\_\_\_\_**

***FACE VALUE OF THE SHARE RS. \_\_\_\_\_***

S.No.	Category of Shareholders.	Share Holding			
		Direct Investment		Portfolio Investment	
		No. of Shares	% of total paid up shares	No. of Shares	% of total paid up shares
1. 2.* 3. 4. 5. 6. 7. 8. 9.	Indian individual Indian company Foreign individual Foreign company NRI OCB FII PIO Any other				

\* For Indian company, information as per proforma in Table-2 also to be supplied.

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**TABLE-2**

**DETAILS OF SHAREHOLDING PATTERN OF EACH INDIAN  
COMPANY HOLDING SHARE IN THE APPLICANT  
COMPANY AS IN SERIAL NO.2 IN COLUMN (1) OF TABLE-1**

- i) Name of the company
- ii) Information as on date
- iii) No. and %age of shares held by the company in the applicant company
- iv) Face value of the share Rs. \_\_\_\_\_
- v) Shareholding pattern of the company

S.No.	Category of Shareholders.	Share Holding			
		Direct Investment		Portfolio investment	
		No. of Shares	% of total paid up shares	No. of Shares	% of total paid up shares
1.	Indian individual				
2.	Indian company				
3.	Foreign individual				
4.	Foreign company				
5.	NRI				
6.	OCB				
7.	FII				
8.	PIO				
9.	Any other				

**Note:** Repeat same information about each Indian company holding share in the applicant company

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## **FORM-B**

### **LICENSE AGREEMENT**

This Agreement is made on this \_\_\_\_\_ day of \_\_\_\_\_, 2001 between the President of India acting through \_\_\_\_\_, Ministry of Information and Broadcasting, Government of India, Shastri Bhawan, New Delhi (hereinafter called the Licensor) of the One Part and M/s \_\_\_\_\_, a company registered under the Companies Act, 1956 and having its registered office at \_\_\_\_\_ (hereinafter called the Licensee which expression shall unless repugnant to the context include, its successors in business, administrators, liquidators and assignees or legal representatives) of the Other Part.

WHEREAS pursuant to the request of the Licensee, the Licensor has agreed to grant license to the Licensee under Section 4 of the Indian Telegraph Act 1885, and the Indian Wireless Telegraphy Act, 1933 on the terms and conditions appearing hereinafter to establish, maintain and operate DTH Platform and the Licensee has agreed to accept the same.

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

Unless otherwise mentioned in the subject or context appearing hereinafter, the Schedule annexed hereto including the terms and conditions prescribed by the Ministry of Information and Broadcasting and the terms and conditions of the Wireless Operational License to be issued by the Wireless Planning & Coordination Wing in the Ministry of Communications, Government of India shall form part and parcel of this License Agreement. Provided, however, in case of conflict or variance or an issue relating to the same, the terms set out in the main body of this Agreement read with all the Schedules annexed hereto shall prevail.

The Licensee will be subject to provisions of any legislation, which may be brought in future in regard to broadcasting.

IN WITNESSTH WHEREOF the parties hereto have caused this Agreement to be executed through their respective authorised representatives, the day, month and year as mentioned above.

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

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

## **SCHEDULE TO FORM - B**

### **TERMS AND CONDITIONS**

#### **ARTICLE-1**

#### **ELIGIBILITY CONDITIONS**

- 1.1 The Licensee company shall be an Indian company, registered under the Indian Companies Act, 1956.
- 1.2 The total Foreign Investment, including FDI/NRI/OCB/FII in the paid up equity of the Licensee Company, shall not be more than 49%.
- 1.3 The FDI component of the foreign equity in the total paid up equity of the Licensee company shall not exceed 20%.  
Explanation : The quantum represented by that proportion of the paid up equity share capital to the total issued equity capital of the Indian promoter Company, held or controlled by foreign investors through FDI/NRI/OCB investments, shall form part of the above said FDI limit of 20%.
- 1.4 The Licensee shall not allow Broadcasting Companies and/or Cable Network Companies to collectively hold or own more than 20% of the total paid up equity in its company at any time during the License period. The Licensee shall submit the equity distribution of the Company in the prescribed proforma (Table I and II of Form-A) once within one month of start of every financial year. The Government will also be able to call for details of equity holding of Licensee company at such times as considered necessary.
- 1.5 The Licensee company not to hold or own more than 20% equity share in a broadcasting and/or Cable Network Company. The Licensee shall submit the details of investment made by the Licensee company every year once within one month of start of that financial year. The Government. will also be able to call for details of investment made by the Licensee company in the equity of other companies at such times as considered necessary.
- 1.6 The applicant company shall always have Indian management control with majority representatives on the Board, as well as the Chief Executive of the company being a resident Indian citizen.

- 1.7 Any change in the equity structure of the Licensee Company as well as amendment to shareholders agreement, wherever applicable, shall only be carried out in consultation and with prior approval of Licensor.  
(Added by Order No. 8/ 3/2004-BP&L dated 1<sup>st</sup> June 2005)

## **ARTICLE-2**

### **TERM OF LICENSE**

- 2.1 The validity period of License shall be ten (10) years, on non-exclusive basis, and shall be reckoned from the date of issue of Wireless Operational License by the WPC, unless terminated earlier for default or for insolvency or for convenience or for transfer of the License.
- 2.2 The license shall not be transferred without prior approval of the Licensor.

## **ARTICLE 3**

### **LICENSE FEE**

- 3.1 The Licensee shall pay an initial non-refundable entry fee of Rs.10 crores before the issue of letter of intent to him by Licensor, and, after the issue of the Wireless Operational License by the Wireless Planning and Coordination (WPC) Wing of the Ministry of Communications, an annual fee equivalent to 10% of its gross revenue in that particular financial year in the manner detailed hereunder.
- 3.1.1 Gross Revenue for this purpose would be the gross inflow of cash, receivable or other consideration arising in the course of ordinary activities of the Direct to Home [DTH] enterprise from rendering of services and from the use by others of the enterprise resources yielding rent, interest, dividend, royalties, commissions etc. Gross revenue shall, therefore, be calculated, without deduction of taxes and agency commission, on the basis of billing rates, net of discounts to advertisers. Barter advertising contracts shall also be included in the gross revenues on the basis of relevant billing rates. In the case of licensee providing or receiving goods and service from other companies that are owned or controlled by the owners of the licensee, all such transactions shall be valued at normal commercial rates and included in the profit and loss accounts of the licensee to calculate its gross revenue.

3.1.2 Every licensee shall maintain separate financial accounts for the channel, which shall be audited by the Statutory Auditors. At the end of each financial year, the company shall provide the statement of gross revenue forming part of the final accounts of the licensee as per the format in Form D, duly certified by the Statutory Auditors. It may be noted that the income heads specified in Form D are only indicative and illustrative and the Auditor would include all the relevant heads qualifying for gross revenue whether or not specifically included in the said format. In addition, the income from the Related Parties shall have to tally with the Related Parties schedule as per Accounting Standards no. 18. Besides, the company shall disclose the following information at the end of each financial year, duly certified by the Statutory Auditor.

Total trade and other discounts.

Total agency commission.

Total Related party transaction.

3.1.3 So as to verify that the Gross Revenue is correctly disclosed to it, the Government of India shall have the right to get the accounts of any licensee audited by CAG or any other professional auditors at its discretion. In case of difference between the Gross Revenue determined by the Statutory Auditors and the Government appointed auditors, the views of the government appointed auditor, subject to opportunity of hearing to the licensee shall prevail and the expenses on such audit shall be borne by the licensee.

**(Clauses 3.1.1 to 3.1.3 Added by Order No. 8/ 12/2006-BP&L dated 31<sup>st</sup> July 2006)**

3.1A.1 The First payment of Annual license fee for the financial year (FY) shall be made on the basis of provisional accounts for the FY certified by the Statutory Auditors, within one month of the end of that FY.

3.1A.2 Annual License fee for the FY shall be finally determined on the basis of final annual accounts of the FY audited by the Statutory Auditors, which shall not be later than 30th September of the following FY. If the amount so determined is found to be higher than the amount already deposited as per clause 3.1A.1, the difference amount along with simple interest @ 1% per month on the difference for the period of delay calculated from 1st of May of the following FY upto and including the date of such payment shall be paid in one lumpsum within a period of 15 days from the date of finalization of

audited accounts, or 15th October of the following FY whichever is earlier.

3.1A.3 Where the total annual fee deposited as per clause 3.1A.1 is more than the amount determined on the basis of audited accounts of the FY, the difference may at the request of the licensee be adjustable against the annual licence fee due for the following FY.

3.1A.4 In case any amount is to be deposited by the licensee as per provisions of clause 3.1.3 it shall be deposited within 15 days of such determination along with simple interest at the rate of 1% per month for the period from 1st May following the FY for which such determination has been made, upto and including the date of payment.

**(Clauses 3.1A.1 to 3.1A.4 Added by Order No. 8/ 12/2006-BP&L dated 6<sup>th</sup> November, 2007)**

3.2 The Licensee shall also in addition pay the license fee and royalty for the spectrum used as prescribed by Wireless Planning & Coordination Authority (WPC), under the Department of Telecommunications.

#### **ARTICLE-4**

##### **BANK GUARANTEE**

4.1 The Licensee shall, within one month of issual of SACFA clearance by W.P.C., submit to the Ministry of I & B, a Bank Guarantee from any Scheduled Bank in Form-C for an amount of Rs.40 crores valid for the duration of the license.

4.2 The Licensor shall be at liberty to encash the Bank Guarantee in full or part in the event of non-payment of the license fee or violation of any of the license condition.

#### **ARTICLE-5**

##### **COMPLIANCE WITH PROGRAMME AND ADVERTISING**

##### **CODES**

- 5.1 The Licensee shall ensure adherence to the Programme Code (PC) and Advertisement Code (AC), laid down by the Ministry of Information & Broadcasting from time to time.
- 5.2 The Licensee shall invariably ensure that the subscribers of the service do not have access to any pornographic channel or to secret/ anti-national messaging and the like. If the Licensee fails to do so , the License shall stand cancelled.
- (Added by Order No. 8/ 3/2004-BP&L dated 1<sup>st</sup> June 2005)**

## **ARTICLE-6**

### **PROHIBITION OF CERTAIN ACTIVITIES**

- 6.1 The Licensee shall not carry any channels prohibited by the Ministry of Information & Broadcasting.
- 6.2 The Licensee shall ensure that its facilities are not used for transmitting any objectionable or obscene content, messages or communication inconsistent with the laws of India. The use of the facility or service for anti national activities would be construed as an offence punishable under the Indian Penal Code and applicable laws and will attract immediate termination of License.
- 6.3 The Licensor reserves the right to prohibit the transmission or reception of programmes in the interest of national security or in the event of emergency/war or similar type of situation. Notwithstanding any agreement between the Licensee and the content providers, the Licensee shall stop forthwith, transmission of TV channels or any content, as and when directed to do so by the Licensor or any other designated lawful authority.
- 6.4 Except with prior approval of Licensor, the Licensee shall not either directly or indirectly assign or transfer its right in any manner whatsoever under this Agreement to any other party or enter into any Agreement for sub-license and/ or partnership relating to any subject matter of the License to any third party either in whole or in part. Any violation of the terms shall be construed as breach of the License Agreement and License of the Licensee shall be terminated immediately.
- 6.5 The Licensee shall not carry the signals of a broadcaster against whom any regulatory body, tribunal or court have found the following
- (i) refused access on a non-discriminatory basis to another DTH operator contrary to the Regulations of TRAI
  - (ii) violated the provisions of any law relating to competition including the Competition Act.

**(Added by Order No. 8/ 3/2004-BP&L dated 1<sup>st</sup> June 2005)**

- 6.6 The Licensee shall not enter into any exclusive contract for distribution of TV Channels.

[ Explanation: It shall be the sole responsibility of the licensee to ascertain before carrying its signals on its platform whether any broadcaster(s) has been found to be in violation of the above conditions or not . In respect of TV Channels already being carried on the platform, the licensee shall ascertain from every source including the licensor, TRAI, Tribunal or a court, whether concerned broadcasters or the channels is in violation of the above conditions. If any violation so comes to its notice, the licensee shall forthwith discontinue to carry the channels of the said broadcaster]

**(Added by Order No. 8/ 3/2004-BP&L dated 1<sup>st</sup> June 2005)**

- 6.7 No licensee shall carry or include in his DTH Service any television broadcast or channel which has not been registered by the Central Government for being viewed within the territory of India.

Provided that the licensee may continue to carry or include in his DTH Service any television broadcast or channel, which has made an application for registration to the Central Government on or before the date of issue of this Order, for a period of six months from the date of such Order or till such registration has been granted or refused, whichever is earlier.

Provided further that TV Channels uplinking from India, in accordance with permission for uplinking granted before 2nd December 2005, shall be treated as “registered” Television channels and can be carried or included in the DTH Service.

**(Added by Order No. 8/ 3/2004-BP&L dated 11<sup>th</sup> May 2006)**

## **ARTICLE-7**

### **TECHNICAL STANDARDS AND OTHER OBLIGATIONS**

- 7.1 The Open Architecture (non-proprietary) Set Top Box, which will ensure technical compatibility and effective interoperability among different DTH service providers, shall have such specifications as laid down by the Government from time to time.



- 7.2 The Licensee shall ensure subscriber's interests through a Conditional Access System (CAS), which is compatible with an open Architecture (non-proprietary) Set Top Box.
- 7.3 The Licensee shall ensure subscriber's interests through a Subscriber Management System (SMS) for an efficient, responsive and accurate billing and collection system.
- 7.4 The Licensee shall not use any equipment, which is identified as unlawful.
- 7.5 All content provided by the DTH platform to the subscribers, irrespective of its source, shall pass through the encryption and conditional access system, located within the Earth Station, situated on Indian soil.
- 7.6 The Licensee shall provide access to various content providers/channels on a non-discriminatory basis.
- 7.7 The Licensee shall adhere to any guidelines/regulations which may be laid down by the Licensor in the interest of consumer such as pricing of bouquet(s) or tier(s) of channels, etc.
- 7.8 The Licensee shall carry or include in his DTH service the TV channels which have been notified for mandatory and compulsory carriage as per provisions of section 8 of the Cable Television Networks (Regulation) Act, 1995 as amended, except for the regional TV channels, failing which the licensor shall be at liberty to take action as per clause 20.1 of this agreement

Provided further that the licensee shall carry other channels of Prasar Bharati not covered under this clause, on most favourable financial terms offered to any other channel.

**(Amended vide Order No. 8/12/2006-BP&L dated the 10<sup>th</sup> September, 2007.)**

## **ARTICLE-8**

### **MONITORING AND INSPECTION**

- 8.1 The Licensee shall provide the necessary facility for continuous monitoring of the DTH broadcasting service at its own cost and maintain the recordings of programmes and advertisements carried on the platform for a period of 90 days from the date of broadcast and

produce the same to the Licensor or its authorised representative, as and when required.

- 8.2 The Licensee shall furnish any such information at periodic intervals as may be required by the Licensor concerning Channels or content being transmitted or provided under the service, technical parameters etc. in the format as may be prescribed by the Licensor from time to time.
- 8.3 Licensee shall provide access to the Licensing Authority or its duly authorised representative. to all its facilities including equipments, records, systems, etc.
- 8.4 The Licensee will, if required by the Licensor or its authorised representative, provide necessary facilities for continuous monitoring for any particular aspect of the Licensee's activities and operations.
- 8.5 The Licensor will ordinarily carry out the inspection after reasonable notice except in circumstances where giving such a notice will defeat the very purpose of the inspection.

## **ARTICLE-9**

### **NATIONAL SECURITY AND OTHER CONDITIONS**

- 9.1 The Licensor reserves the right to take over the entire services and networks of the Licensee or revoke / cancel / suspend the License in the interest of national security or in the event of an emergency / war or low intensity conflict or similar type of situations. Further, the Licensor reserves the right to direct the Licensee to close down the service if implications of security so requires. Any specific order or direction from the Government issued in this regard shall be strictly complied with by the Licensee.
- 9.2 The Licensee shall not use any equipment, which are identified as unlawful and/or render network security vulnerable.
- 9.3 All foreign personnel likely to be deployed by way of appointment, contract, consultancy, etc. by the Licensee for installation, maintenance and operation of the Licensee's services shall be required to obtain security clearance from the Government of India prior to their deployment.

## **ARTICLE-10**

### **VALUE ADDED SERVICES**

- 10.1 The DTH facility shall not be used for other modes of communication, including voice, fax, data, communication, Internet, etc. unless specific license for these value-added services has been obtained from the competent authority.

## **ARTICLE -11**

### **PREFERENCE TO INDIAN SATELLITES AND INTERSYSTEM CO-ORDINATION**

- 11.1 Though Licensee can use the bandwidth capacity for DTH service on both Indian as well as foreign satellites, proposals envisaging use of Indian satellites will be extended preferential treatment.
- 11.2 The Licensee shall ensure that its operation will conform to the provisions of inter-system co-ordination agreement between INSAT and the satellite being used by the Licensee.

## **ARTICLE 12**

### **WPC WING'S LICENSE**

- 12.1 A separate specific operational license shall be required from the WPC Wing of Ministry of Communications for establishment, maintenance & operation of the DTH platform/facility under usual terms and conditions of that license. Grant of WPC operational license will be governed by normal rules, procedures and guidelines and will be subject to completion of all formalities. As may be prescribed by the WPC Wing, the Ministry of Communication for this purpose, an application shall be made to the "Wireless Advisor to the Government of India, WPC Wing, Ministry of Communications, Dak Bhavan, Parliament Street, New Delhi-110001" in a prescribed application form available from WPC Wing within one month from the date of signing of this agreement.
- 12.2 The Licensee shall obtain clearances/approvals, as may be prescribed or required, from the Wireless Planning Coordination Wing or from the Department of Space.

- 12.3 The Wireless Planning & Coordination (WPC) Wing of the Department of Telecommunication, Ministry of Communication shall issue SACFA clearance to the Licensee as soon as possible after receiving the application the same and shall grant the final Wireless Operational License, after signing of this agreement, subject to fulfilment of the necessary terms and conditions including installation of equipment etc. as may be required by WPC.
- 12.4 The Wireless and Planning Coordination Wing shall have the right to inspect, from time to time, the installation with a view to ensuring conformity with the WPC's license
- 12.5 The Licensee shall not cause harmful interference to other authorised users of radio spectrum. WPC Wing will have the sole discretion to take practicable and necessary steps for elimination of harmful interference, if any, to other licensed users.
- 12.6 The Licensee shall furnish to the WPC Wing the full technical and operational details of TV channels and other channels proposed to be uplinked through his/her Hub/Teleport in the prescribed format.

### **ARTICLE-13**

#### **COMMISSIONING OF DTH PLATFORM**

- 13.1 The Licensee shall establish and complete the installation of the uplink earth station in India including the monitoring facility etc. and commission the DTH Platform within twelve months from the date of issue of the SACFA clearance by the WPC after obtaining wireless operational license and would submit a report to the Licensor in this regard.

### **ARTICLE-14**

#### **REQUIREMENT TO FURNISH INFORMATION TO THE LICENSOR**

- 14.1 The Licensee shall furnish to the Licensor, such information at periodic intervals or at such times as the Licensor may require, including, but, not limited to, documents, reports, accounts, estimates, returns or other information such as change in Chief Executive, Board of Directors, equity holding pattern etc.

## **ARTICLE-15**

### **TERMINATION OF LICENSE**

- 15.1 Notwithstanding any other recourse under the terms and conditions of the license or any other law, the Licensor shall have the power, after recording the reasons in writing, to revoke/suspend the license in the event of breach of any terms and conditions of the license. However, before taking such action the licensing authority will give the Licensee an opportunity of being heard. The decision of the licensing authority shall be final.
- 15.2 The Licensor may, at any time, terminate the License without compensation to the Licensee in case Licensee becomes bankrupt or otherwise insolvent or applies for being adjudicated as insolvent/bankrupt, provided such termination shall not prejudice or affect any right of action which has accrued or will accrue thereafter to the Licensor.

## **ARTICLE-16**

### **FORCE MAJEURE**

- 16.1 If at any time, during the continuance of this License, the performance of any obligation either in whole or in part by any party is prevented or delayed, by reason of war, hostility, acts of enemy, civil commotion, sabotage, fire, flood, act of state or centre, explosion, epidemic, quarantine restriction, strikes materially affecting the performance of any obligations of affected party, or act of God (all or any of these hereinafter referred to as Force Majeure Event), neither party shall, by reason of such Force Majeure Event be entitled to terminate this License, nor shall either party have any claim for damages against the other, in respect of such non-performance or delay in performance provided notice of happenings of any such Force Majeure Event is given by either party to the other, within 21 days from the date of occurrence thereof.

## **ARTICLE-17**

### **DISPUTES WITH OTHER PARTIES**

- 17.1 In the event of any dispute of the Licensee with any party other than Licensor due to any reason whatsoever, the dispute will be sorted out among themselves and Licensor will have no liability in any manner. The Licensee undertakes to indemnify Licensor in respect of any

action against Licensor for acts of commission or omission on the part of the Licensee , its agents and servants.

## **ARTICLE-18**

### **DISPUTE RESOLUTION AND JURISDICTION**

- 18.1 In the event of any question, dispute or difference arising under this License, or in connection thereof, except as to the matter, the decision of which is specifically provided under this License, the same shall be referred to the sole arbitration of the Secretary, Department of Legal Affairs, Government of India or his nominee.
- 18.2 There will be no objection to any such appointment on the ground that the Arbitrator is a Government servant. The award of the arbitrator shall be final and binding on the parties. In the event of such Arbitrator, to whom the matter is originally referred to, being transferred or vacating his office, or being unable to act for any reason whatsoever, Secretary, Department of Legal Affairs shall appoint another person to act as Arbitrator.
- 18.3 The Arbitration and Conciliation Act, 1996, the rules made thereunder and any modification thereof, for the time being in force, shall be deemed to apply to the arbitration proceedings as above. The venue of arbitration shall be New Delhi or such other place as the Arbitrator may decide. The arbitration proceedings shall be conducted in English language.
- 18.4 Upon any and every reference as aforesaid, the assessment of costs, interest and incidental expenses in the proceedings for the award shall be at the discretion of the Arbitrator.
- 18.5 The Courts at New Delhi shall have the jurisdiction over all disputes.

## **ARTICLE - 19**

### **CONFIDENTIALITY**

- 19.1 The Licensee shall keep all the secret and security related information exchanged between the Licensor and itself as confidential and shall not disclose such information to any third party or to the media.

## ARTICLE-20

### PENALTY

- 20.1 For violation of license conditions, in addition to any other action which may include revocation of license, a penalty upto Rs.50 crores can be imposed by the Licensor on the Licensee. However, before taking such action the licensing authority will give the Licensee an opportunity of being heard. The decision of the licensing authority shall be final.

## ARTICLE-21

### MISCELLANEOUS

- 21.1 Notwithstanding any clause anywhere else in the License, the License will be subject to the condition that as and when any regulatory authority to regulate and monitor the Broadcast Services in the country is constituted, the Licensee's will have to adhere to the norms, rules and regulations prescribed by such authority.
- 21.2 This license is subject to requirements and provisions of any law which may be enacted in future for regulating and guiding broadcasting in India.
- 21.3 The Licensee shall obtain the necessary environmental clearances, wherever required. The Licensee shall also comply with Copyright Act, the Electricity Act, Factories Act and other relevant laws of the land. In case of non-compliance of any of the aforesaid requirement, the Licensor shall have the right to revoke the License of the Licensee.

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## PROFORMA FOR BANK GUARANTEE

(FORM –C)

**Bank Guarantee for Direct-to-Home (DTH) Broadcasting Service  
at \_\_\_\_\_**

To:

The President of India

Acting through \_\_\_\_\_

Shastri Bhavan

New Delhi - 110 001

In consideration of the President of India acting through \_\_\_\_\_  
\_\_\_\_\_ (the Licensor) having agreed to grant a  
License to \_\_\_\_\_ \*[Name and address of  
Licensee] (hereinafter called “the Licensee ”) to establish, maintain  
and operate DTH Broadcasting Service at \_\_\_\_\_  
on the terms and conditions of the License agreement to be executed  
between the Licensor and the Licensee. \_\_\_\_\_, (here in  
after called the “License Agreement”) wherein it has been stipulated  
that the Licensee shall furnish to the Licensor with a Bank Guarantee  
from a scheduled Bank for the sum specified therein as security for the  
due observance and performance of the terms and conditions of the  
said License.

WHEREAS we \_\_\_\_\_ Bank, (indicate the name, address  
and other particulars of the Bank) which expression shall, unless  
repugnant to the context or meaning thereof, include all its successors,  
administrators and executors, a body corporate constituted under the  
Banking Companies (Acquisition & Transfer of Undertaking) Act,  
1970 (hereinafter referred to as ‘the Bank’’) having its Head Office at  
\_\_\_\_\_ and a branch office amongst other places at  
\_\_\_\_\_ hereby irrevocably and unconditionally  
guarantee to the Licensor that the Licensee which expression shall,  
unless repugnant to the context or meaning thereof, include all its  
successors, administrators, executors and assignees shall render all the



necessary services in accordance with the terms and conditions of the License and which may be required for and in connection with the said License and performance thereof to the satisfaction of the Licensor.

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Licensee up to a total **Rs. 40 crore (Rupees Forty crores only) (Amount of Guarantee)** payable, and we undertake to pay you immediately, upon your first written demand and without cavil, demur, argument, reservations, recourse, contest or protest any sum or sums within the limits of **Rs. 40 crore (Rupees Forty crores only) (Amount of Guarantee)** as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein and /or without any reference to the licensee. Further, any such demand made by the Licensor on the bank shall be conclusive and binding notwithstanding any difference between the Licensor and the licensee or any dispute pending before any court arbitrator or any other matter whatsoever. This guarantee shall not be determined/discharged/affected by the liquidation, winding up, dissolution or insolvency of the licensee and will remain valid, binding and operative against the Bank”.

We, the Bank, do hereby agree that the decision of the of the Licensor as to whether the Licensee has failed to or neglected to perform or discharge his duties and obligations as aforesaid and/or whether the service is free from deficiencies and defects and is in accordance with or not of the terms and conditions of the said License and as to the amount payable to the Licensor by the Bank hereunder, shall be final and binding on the Bank.

We hereby waive the necessity of your demanding the said debt from the Licensee before presenting us with the demand and guarantee that we are the primary obligee and not just the surety of the Licensee and Licensor shall be entitled to enforce this guarantee against the Bank as a principal debtor, in the first instance, without proceeding against the licensee.

We further agree that no change or addition to or other modification of the terms of the License or of the works to be performed thereunder or of any of the License documents shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification. Etc.

We \_\_\_\_\_ Bank, do hereby declare and agree that:

- (a) The Guarantee herein contained shall remain in full force and effect till the expiry of the license period of Ten years. It shall also continue to be enforceable till all the dues of the Licensor under and by virtue of the said License have been fully paid and its claims satisfied or discharge or till Licensor informs that all the terms and conditions of the said License have been fully and properly carried out by the said Licensee and accordingly discharged this guarantee.
- (b) The Licensor shall have the fullest liberty without our consent and without discharging in any manner our obligations hereunder to vary any of the terms and conditions of the said License or to extend time of performance of any obligations by the said Licensee from time to time or to postpone for any time or from time to time any of the powers exercisable by the Licensor against the said Licensee and to forbear or to enforce any of the terms and conditions relating to the said License and we shall not be relieved from our liability by reason of any variation or extension being granted to the said Licensee or forbearance act or omission on the part of the Licensor or any indulgence by the Licensor to the said Licensee or to give such matter or thing whatsoever which under the law relating to sureties would but for this provision, have effect of so relieving us.
- (c) Any claim which we have against the Licensee shall be subject and subordinate to the prior payment and performance in full of all the obligations of us hereunder and we will not without prior written consent of the Licensor exercise any legal right or remedy of any kind in respect of any such payment or performance so long as the obligations of us hereunder remains owing and outstanding.
- (d) This guarantee shall be irrevocable and the obligations of us herein shall not be conditional of any prior notice by us or by the Licensee. We further agree that this guarantee shall not be affected by any change in our constitution, the constitution of the licensee or that of the Licensor.
- (e) The Bank will not revoke the guarantee during the currency except with the previous consent of the Licensor.

The bank under its constitution power gives this guarantee and Sh. \_\_\_\_\_, who has signed on behalf of the bank is duly authorised to execute this guarantee.

This guarantee shall not be discharged or affected due to any change in the name, constitution or address of the bank or the Licensee.

This guarantee shall be valid for a period of ten years from this date and until 28 days after the date of issue of the Defect Liability Certificate by the \_\_\_\_\_.

SIGNATURE AND SEAL OF THE GUARANTOR

\_\_\_\_\_

NAME \_\_\_\_\_ OF  
BANK \_\_\_\_\_

ADDRESS \_\_\_\_\_  
\_\_\_\_\_

DATE \_\_\_\_\_

In the presence of:

1. \_\_\_\_\_  
\_\_\_\_\_  
(Name and Occupation)

2. \_\_\_\_\_  
\_\_\_\_\_  
(Name and Occupation)

# The Licensee shall also provide these details as per annexed Table I & II, every year within one month of start of that financial year  
± The Licenser shall also provide these details every year within one month of start of that financial year  
New Delhi, dated the 1st June, 2005.

\_\_\_\_\_

## FORM –D

### STATEMENT OF GROSS REVENUE FORMING PART OF THE FINAL ACCOUNTS OF M/S. -----.

SL. N.	Income Heads	Tariff rate/ rate card	Discounts trade Others	Agency commis- sion	Taxes	Net as per P & L a/c
[Amount Rupees in lacs]						
1.	Advertisement					
2.	Promotional events					
2.1.	Musical/Star Events					
2.2.	Sponsored programmes					
3.	Marketing Rights					
4.	Commission					
5.	Royalties					
6.	Sale of antenna, set top boxes etc.					
7.	Rent –Premises					
8.	Rent-Equipment					
9.	Interest/Dividend					
10.	Related Party Transactions					
10.1	Goods sold					
10.2	Services tendered					
10.3	Production					
10.4	Marketing					
10.5	Others					

Note: 1. The income heads are only indicative and illustrative and the Auditor would include all the relevant Heads of the licensee.

2.The income from the Related Parties shall tally with the Related Parties as per accounting standards no. 18.