

## **Documents/Fee/Bank Guarantee(s) for Providing Headend-In-The-Sky (HITS) Broadcasting Service in India Permission.**

- 1. Application (FORM – 1) for permission to**
  - (i) set up uplinking hub/teleports,**
  - (ii) uplink TV Channels (both News & Current Affairs and Non-News & Current Affairs) and (iii) uplink to news agencies.**
- 2. One time Entry Fee (Non-refundable) of Rs.10 crores to be deposited through web-portal “Bharatkosh”.**
- 3. Statement of Gross Revenue forming part of Final Accounts as per Form-D.**
- 4. Grant of Permission Agreement as per Form-B.**
- 5. Performance Bank Guarantee of Rs.40 crores as per format.**

**FORM 1**

**Application form for permission to (i) set up uplinking hub/teleports, (ii) uplink TV Channels (both News & Current Affairs and Non-News & Current Affairs) and (iii) uplink to news agencies.**

(One original and four identical copies to be submitted).

The Secretary,  
Ministry of Information and Broadcasting,  
Shastri Bhawan, 'A' Wing,  
New Delhi-110001

**Subject: Application for Permission to.....**  
*(Please mention the purpose of application).*

Sir,

I hereby submit the following details in support of the eligibility as prescribed in the guidelines for uplinking, in addition to other particulars:

1. i) Name of Applicant Company: \_\_\_\_\_
- ii) Particulars of the Directors (starting with CEO/MD):

Sl No.	Name/Parentage	Date of Birth	Nationality	Passport Details, If any	Position held	Address

(Any change in Board of Directors prior to issue of permission to be informed immediately to the Ministry. The company would have to obtain prior permission from the Ministry in case of change of Directors, after issue of permission.)

2. i) Address (Office)
  - (a) Head Office
  - (b) Regional Office

- ii) Telephone Number (s)  
FAX:  
e-mail:
- iii) Registration details (enclose Memorandum & Articles of Association)

3. Structure of Equity Capital

- i) Authorised share capital: Rs. \_\_\_\_\_
- ii) Paid up share capital: Rs. \_\_\_\_\_

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

- i) Direct investment
  - (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

- iii) Total foreign equity in the company (Direct & Indirect) .....  
(Indicate the detailed calculation, including indirect foreign equity as per clause 3.1.3 and enclose SHP of all investing companies.)

5. (i) Net worth: .....

(Enclose a copy of the audited balance sheet and Profit & Loss Account for the immediate preceding year and certificate of Net Worth on the basis of these documents by a Chartered Accountant as per format enclosed, in case the networth certificate is on a date different from end of the financial year, it should be supported by certified balance sheet form the statutory auditor on the date of such certification.)

(ii) Source of funding:

(Enclose a copy of the project report with all technical details, flow of funds and source of funding.)

6. Field of activity:

7. (i) Details of transponder (s) for uplinking and downlinking:

Name of satellite (s) proposed to be hired	Orbital location	Type and No. of Transponder (s) with band-width	Signal strength in primary zone over India	Name of the Company from which the satellite/transponder is to be leased	Uplink & downlink frequencies

(Enclose lease Agreement & footprint of each satellite proposed to be hired)

(ii) In Case of foreign Satellite, the detailed reasons for not using the capacity on Indian Satellite may be enclosed.

**Additional details in case of application for a teleport.**

8. Details of teleport

i) Location of teleport

ii) Capacity of teleport (Proposed)

(a) No. of channels:

(b) No. of satellites:

(c) No. of proposed earth stations constituting teleport

(d) Approximate date for commissioning the teleport

(e) Antenna size of the teleport, EIRP

**Additional details in case of application for uplinking a TV Channel.**  
**(For both Non-News & Current Affairs and News & Current Affairs)**

9. Details of uplinking hub (Teleport)
- a) Name and address of the company providing the Teleport for uplinking
  - b) Location of teleport
  - c) Antenna size of teleport, EIRP
  - d) Permission details of the teleport, status of its operationalisation and period of agreement with the Teleport Service Provider.

**(Enclose a copy of the agreement with the Teleport Service Provider, in case of a Third Party Teleport.)**

10. Number & name of channel (s) to be uplinked indicating the proposed date of commencement of uplinking from proposed hud/teleports.

Sl No.	Name of the Channel	Language	Digital or Analog	Free to Air or Encrypted	Proposed date of commencement of uplinking

11. Whether declaration in Form 1A and 1B or 1C enclosed. (Yes/No) and also mention the details.

[Please note that declaration in Form 1A & 1B are required in the case of a News & Current Affairs TV channels, whereas declaration in Form 1A & 1C are to be furnished for a Non-news & current affairs TV channel.]

**Additional details in case of application for a News & Current Affairs TV Channel.**

12. Particulars of the News Editor (s), authority (ies)/body(ies) exercising editorial control over news & current affairs

Sl No.	Name/Parentage	Date of Birth	Nationality	Passport Details. If Any	Position held	Address

(Any change in the news editor prior to the issue of permission will have to be informed immediately to the Ministry. The company would seek prior clearance from the Ministry in case of such change, after issue of permission.)

13. Whether the representation on the Board of Directors are proportionate to the shareholding in the company -----(Yes/No)

If not, the reasons thereof: .....

14. PIB accreditation details (enclose certificate)

15. Whether company conforms to clause (C) of the eligibility criteria (Yes/No)

(Enclose documents in support of compliance and a certificate to this effect by Chartered Accountant.)

16. Disclosures about shareholders agreements, loan agreement and such other agreements that are finalized or are proposed to be entered into. (Enclose all the documents):

**Additional details in case of application for uplinking to news agencies.**

17. PIB accreditation details (enclose certificate)

18. Is the news agency 100% owned by Indians, if so, enclose shareholding pattern with details as per Annexure.

19. Give details of equipment for distribution of news material  
(i) SNG,  
(ii) DSNG,  
(iii) Permanent Earth Station

20. Give details of the equipment to be used for collecting news material  
(i) SNG  
(ii) DSNG

21. Location(s) at which news gathering/distribution equipment to be installed.

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

Place :  
Applicant)

(Signature of

Company]  
Date :

[Authorized Signatory of the

Name

Office Address:

Seal

**List of Enclosures attached with the application**

Please tick against the following documents enclosed with the application (as applicable):

- (1) Memorandum & Article of Association [Point 2(iii)].
- (2) Shareholding Pattern as per Table 1 for Applicant Company & Table 2 for investing companies [point 4].
- (3) Calculation Sheet for Foreign Equity in the company (Direct & Indirect) [point 4 (iii)] with copy of FIPB approval.
- (4) Audited Balance sheet and Profit & Loss Account for the immediate preceding financial year and Certificate of Net Worth (as per enclosed format with notes) by a Chartered Accountant on the basis of these documents [point 5(i)].
  - (4.1) In case the networth certificate is on a date different from end of the financial year, it should be supported by certified balance sheet from the statutory auditor on the date of such certification.
  - (4.2) In case shares have been allotted on basis of valuation of a property / equipment, then valuation certificate from an approved valuer should also be enclosed.
- (5) Satellite lease agreement and details of footprint [point 7].
- (6) Project Report [ point 5(ii)].
- (7) Copy of the agreement with the Teleport Service Provider, in case of a third party teleport [ point 9].
- (8) PIB Accreditation Certificate [ point 14].
- (9) Certificate by a Chartered Account with all the supporting document in compliance to Clause (C) [ point 15]
- (10) Shareholding and Loan Agreements, if any [ point 16].
- (11) Affidavits in Form 1A & 1B or 1C [ point 11].
- (12) Any other: .....

Place : (Signature of Applicant)

Date : Name

Office Address:

[All pages of the application to be page numbered in reverse order (last page to be numbered 1 and certified by authorised signatory of the company with seal]

[Note: In case of non furnishing of complete information, the application is liable to be rejected and returned to the company forthwith.]

**ANNEXURE TO FORM 1.**

**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.	Indian individual				
2.	Indian company				
3.	Foreign individual				
4.	Foreign company				
5.	NRI				
6.	OCB				
7.	FII				
8.	PIO				
9.	Any other				

(i) For Indian company (ies), information as per proforma in Table-2 also to be supplied for each company.

(ii) Complete beak-up of number of shares of the applicant company held by each Indian company should also be provided.

(iii) In case of FDI enclose copy of FIPB approval.



**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) SHAREHOLDING PATTERN OF 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.	Indian individual				
2.	Indian company				
3.	Foreign individual				
4.	Foreign company				
5.	NRI				
6.	OCB				
7.	FII				
8.	PIO				
9.	Any other				

ii) -Do-

iii) -Do-

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

**FORM- 1A**

**AFFIDAVIT/UNDERTAKING  
(on Rs 20 Stamp Paper & Notarized)**

WHEREAS I, Shri ..... S/o Shri ..... in the capacity of ..... (designation) have applied to the Ministry of Information and Broadcasting on behalf of M/s ..... for approval/permission for uplinking of TV channel..... from ..... (place)

WHEREAS as a condition precedent to above approval/ permission, I am required to abide by the Programme & Advertising Codes prescribed under the cable Television Network (Regulation) Act, 1995 and the rules passed thereunder.

WHEREAS I have read the abovementioned Programme & Advertising Codes.

WHEREAS I understand that the permission/ approval so granted can be withdrawn, if I fail to abide by the said Programme & Advertising Codes.

Now, therefore, I hereby undertake as follows:

- i. I undertake to abide by the Programme & Advertising Codes laid down by the Ministry of Information and Broadcasting, Government of India from time to time.
- ii. I undertake to furnish periodic information relating to public complaints, programme contents and any other information in respect of above-mentioned TV channels as may be laid down/ asked for by the Ministry of Information & Broadcasting from time to time.
- iii. I undertake to provide the necessary equipment and facility for continuous monitoring of the broadcaster service at my own cost and preserve the recordings of broadcasting materials for a period of 3 months from the date of broadcast and produce the same to Ministry of Information & Broadcasting or to its authorized representative as and when required.

Signature

Name

Designation

Seal of Company

Place:

Date:

**FORM – 1B (for news & current affairs TV channels)**

**AFFIDAVIT/ UNDERTAKING**

(on Rs 100 Stamp Paper & Notarized)

WHEREAS M/s \_\_\_\_\_ have applied to the Ministry of Information and Broadcasting for approval/ permission for uplinking of a TV channel \_\_\_\_\_

WHEREAS information have been provided in Form 1 supported by affidavit in Form 1A and declarations in Table I and Table II.

WHEREAS I understand that the information given in the application and in Form 1A,1B and Table I and Table II form a composite part of this permission.

I do hereby undertake that I will abide by all the terms and conditions applicable to uplinking of News & Current Affairs TV Channels is at all times.

For and on behalf of

M/s \_\_\_\_\_

Company Secretary

Seal of the Company

Date:

Place:

**FORM- 1C**

**AFFIDAVIT/UNDERTAKING**

[For Non-News & Current Affairs TV Channel]  
**(on Rs 100 Stamp Paper & Notarized)**

WHEREAS M/s. .... Have applied to the Ministry of Information & Broadcasting for approval/ permission for uplinking of a TV Channel .....

WHEREAS information have been provided in Form 1 supported by affidavit in Form 1A and declarations in Table I and Table II along with other related documents (i.e. Memorandum and Articles of Association, project report, satellite lease agreement, etc.)

WHEREAS we understand that the information given in the application and in Form 1A 1C and Table I & II and other related documents form a composite part of this permission.

We submit that the channel is purely an entertainment channel and does not have any news or current affairs based programme.

We hereby undertake that in accordance with the guidelines for uplinking of TV channels, we will seek fresh permission from the Govt., should there be a change in the Programme content of the channel to include news/ current affairs along with a change in the ownership pattern to include any element of foreign equity/management control and that prior information of any such proposed change shall be given to the Government.

We also undertake to supply information, in the format as prescribed by the Govt. from time to time.

For and on behalf of

M/s \_\_\_\_\_

Authorized Signatory  
Seal of the Company

Date:

Place:

Format for the Certificate of Net Worth by the Statutory Auditors

We have audited the Books of Accounts of M/s. \_\_\_\_\_ for the financial year ended March 31, 20\_\_ / period ended dd/mm/yy and certify that the Net Worth of M/s. \_\_\_\_\_ as on March 31, 20\_\_ / as at dd/mm/yy is Rs \_\_\_\_\_ (Rupees in words \_\_\_\_\_)

**We further certify that the Net Worth of M/s. \_\_\_\_\_ (Name of the company) is computed as follows.**

SI. No.	Particulars	Amount in Rs. lacs
1.	Book Value of assets	
2.	Book value of fictitious and intangible assets	
3.	Liabilities other than owner's funds	
4.	Net Worth { 1- (2+3)}	

Notes

1. "Net Worth" has been defined in the Companies Act under Section 2 (29A) as follows.

'net worth means the sum total of the paid-up capital and free reserves after deducting the provisions or expenses as may be prescribed.

Explanation for the purpose of this clause, 'free reserves' means all reserves created out of the profits and share premium account but does not include reserve created out of *revaluation of assets, write back of depreciation, provisions and amalgamations.*

**2. Networth**

The excess of the book value of assets (other than fictitious assets) of an enterprise over its liabilities.

**"Book value of assets"**

The amount at which an item appears in the books of account or financial statements. It does not refer to any particular basis on which the amount is determined. Eg. Cost, replacement value etc.

**"Fictitious Assets"**

Items grouped under the assets in a balance sheet which has no real value (eg. The debit balance of the profit and loss account)

**"Liabilities"**

The financial obligation of an enterprise other than owner's funds.

*Owner's funds means paid-up capital and free reserves*

*Explanation for the purpose of this clause, "free reserves" means all reserves created out of the profits and share premium account but does not include reserve created out of revaluation of assets, write back of depreciation provisions and amalgamations.*

(This note should not be deleted from the certificate submitted)

**FORM-B**

**LICENSE AGREEMENT**

**GRANT OF PERMISSION AGREEMENT**

**BETWEEN**

**MINISTRY OF INFORMATION & BROADCASTING**

**GOVERNMENT OF INDIA**

**AND**

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**TO**

**Establish, maintain and operate HEADEND-IN-THE-SKY**

**(HITS) BROADCASTING SERVICES**

**AT**

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## GRANT OF PERMISSION AGREEMENT

This Agreement is made on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between the President of India acting through \_\_\_\_\_, Ministry of Information & Broadcasting, Government of India, Shastri Bhawan, New Delhi (hereinafter called the **Grantor**) of the One Part and M/s \_\_\_\_\_, a company registered under the Companies Act, 1956 and having registered office at \_\_\_\_\_ (hereinafter called the **Permission Holder** which expression shall unless repugnant to the context include, its successors in business, administrators, liquidators and assigns or legal representatives) of the Other part.

WHEREAS **Permission Holder** has applied to the **Grantor** to grant Permission under “Policy Guidelines for providing Headend-in-the-Sky (HITS) broadcasting services in India” (hereinafter called **the Guidelines**) notified / issued on 26.11.2009 to establish, maintain and operate Headend-in-the-Sky (HITS) \_\_\_\_\_ broadcasting \_\_\_\_\_ services \_\_\_\_\_ /platform \_\_\_\_\_

AND WHEREAS pursuant to undertakings and the fulfillment of eligibility conditions, assurances and payment of requisite non-refundable entry fee by the **Permission Holder**, as per **the Guidelines** notified / issued on 26.11.2009, **the Grantor** is agreeable to grant permission to **Permission Holder**, to establish, maintain and operate HITS platform at \_\_\_\_\_ on terms and conditions appearing hereinafter and the **Permission Holder** has agreed to accept the same.

AND WHEREAS the **Permission Holder** has agreed to faithfully comply with any subsequent additions deletion and modifications in the Guidelines and the

orders / guidelines issued or to be issued from time to time by the **Grantor** or any Regulatory Authority for Broadcasting Services.

AND WHEREAS **Permission Holder** has obtained frequency and Standing Advisory Committee for Frequency Allocation (SACFA) clearance and shall obtain Wireless Operating License (WOL) from WPC Wing of the Ministry of Communications and Information Technology, Government of India before commissioning the HITS broadcasting service.

In this Agreement, words and expressions shall, unless the context otherwise requires, have the same meaning as is respectively assigned to them herein under:

**NOW THIS AGREEMENT WITNESSETH AS UNDER;**

- 1.1. **“Grant of Permission Agreement or GOPA”** shall mean this Agreement with all subsequent additions / deletions / modifications thereto.
  - 1.2. **“Permission”** shall mean the permission to be granted by the Grantor to the Permission Holder in pursuance of this agreement.
  - 1.3. **“Permission Fee”** means the fee as prescribed in Para 4.1 of the Guidelines for providing Headend-in-the-Sky (HITS) broadcasting services in India.
  - 1.4. **“HITS”** shall mean Headend-in-the-Sky Broadcasting Service.
  - 1.5. **“WPC”** shall mean Wireless Planning and Coordination Wing, Ministry of Communication & IT, Government of India.
2. In consideration of the continuous fulfillment of the eligibility conditions and conditions precedent, covenants in terms of this Agreement and subject to due performance of and / or compliance with all terms and conditions of this agreement hereto and any subsequent additions, deletions and



modifications in **the Guidelines**, on the part of the **Permission Holder**, the **Grantor** hereby grants, on non-exclusive basis for a period of Ten (10) years, the permission to establish, maintain and operate a HITS broadcasting services platform at \_\_\_\_\_ subject to terms and conditions hereunder.

2.1 The operation of the Permission Agreement shall depend and shall also continue to depend on the fulfillment and continued fulfillment of all the following eligibility conditions and precedent. Inability of the **Permission Holder** to meet any of the eligibility conditions or any conditions precedent shall result into immediate cancellation of this **GOPA**.

- I. As per guidelines as amended from time to time.
- II. Effective security clearance of the permission holder
- III. Effective security clearance of persons associated with Permission Holder or foreign personnel as referred to in Article 11.3 (para 11.3) of this Agreement.
- IV. Effective WOL from WPC, Ministry of Communication and Information Technology.

And on failure on any of these accounts, this agreement shall stand terminated without further action by either party and the **Permission Holder** shall not be entitled for any compensation for loss of *un-expired license period*.

### **3. Term of Permission**

- 3.1 The Permission shall be valid for a period of Ten (10) years from the date of issue of Wireless Operational License (WOL) by the WPC Wing of Ministry of Communication and Information Technology, Government of India, unless terminated earlier as provided hereunder.
- 3.2 The Permission is non-transferable except with specific and prior approval of the **Grantor**. Any violation of this shall be construed as breach of this Agreement, likely to result in termination of this agreement.
- 3.3 The **Permission Holder** shall not carry out the Uplinking/Downlinking in any other band except C-Band or Ku Band as permitted. In case permission is granted for KU Band, the **Permission Holder** shall not use the HITS platform to run/operate as Direct to Home (DTH) Service, to which separate guidelines applies.
- 3.4 After the expiry of permission, renewal of permission will be considered as per policy decision taken by the Government prevailing at the time of renewal subject to the company's acceptance all of terms and conditions of permission as the Government may prescribe by way of policy pronouncements from time to time.

### **4. Payment of Fees to the Government**

- 4.1 The Permission holder shall not require to pay annual license fee for providing HITS broadcasting services under this agreement.

4.2 The Permission Holder shall pay the license fee and **royalty** for the spectrum used as prescribed by the WPC Wing under the Department of Telecommunications, Ministry of Communication and Information Technology, Government of India.

## **5. Performance Bank Guarantee**

5.1 The Permission holder shall provide two performance Bank Guarantees of Rs.20 crore each (Total Rs.40 crore) in favour of the Grantor, valid for a period of three years.

5.2 The HITS permission holder shall commence Uplinking / Downlinking operations within a period of one year from the date of issuance of Wireless Operational License (WOL) by the WPC, failing which half of the Bank Guarantee i.e. of Rs.20 crore would be forfeited.

5.3 If the Permission Holder does not start the service within two years from the date of issuance of Wireless Operational License (WOL) by the WPC, the remaining performance Bank Guarantee of Rs.20 crore will be forfeited and action for revocation of the permission will also be considered by the Grantor on completion of two years from the date of issuance of WOL by the WPC.

5.4 If the HITS permission holder fulfils the roll out obligation within one year of issuance of WOL by the WPC, then full amount of performance Bank Guarantee will be refunded. If the HITS permission holder meets the roll out obligation after one year but within two year of the issuance of WOL by the WPC, then half of performance bank guarantee i.e. of Rs.20 crore will be refunded.

## 6. Basic Conditions and Obligations

- 6.1 The majority of Directors on the Board of the Company of the Permission Holder shall be Indian Citizens. The Company, Directors, Managing Director, Chief Executive Officer (CEO), and Chief Financial Officer (CFO) will be required to remain security cleared from the ministry of Home Affairs. The permission holder shall give without fail intimation to the Grantor regarding change in the directorship, key executives or foreign direct investment in the company, within 15 days of such a change taking place for the purpose of security clearance from the Ministry of Home Affairs.
- 6.2 Permission holder shall not carry or include in his HITS Service any television broadcast or channel which has not been registered by the Ministry of Information & Broadcasting for being viewed within the territory of India. Notwithstanding any agreement entered into between the permission holder and broadcaster(s) / TV channel owner(s), the permission holder shall stop from carrying / including in its HITS service, TV channels, whenever such registration / permission is withdrawn.
- 6.3 The permission holder shall not carry any channels broadcast of which is prohibited by the Ministry of Information & Broadcasting.
- 6.4 The Permission holder shall not carry the channels of a broadcaster against whom the competent authority or any regulatory body, tribunal or court have found the following:-
- (i) It has refused access on a non-discriminatory basis to another broadcasting service provider contrary to the rules, regulations etc. governing the broadcasting services in India;
  - (ii) It has violated the provisions of any law relating to competition including the Competition Act.

**[Explanation:** It shall be the sole responsibility of the permission holder to ascertain before carrying any channels on its network whether any television channel broadcaster 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 permission holder shall ascertain from every source including the Government, TRAI, Tribunal or a Court whether concerned broadcaster or the channel is in violation of the above conditions. If any violation so comes to its notice, the permission holder shall forthwith discontinue carrying the television channels of such broadcaster.]

- 6.5 The permission holder shall ensure that each of the channels carried by it follows the Programme Code and Advertisement Code as laid down under the Cable Television Networks (Regulation) Act, 1995 and the Rules framed there under or any other code made applicable.
- 6.6 The Permission holder 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 through the HITS platform. If the permission holder fails to do so, the permission granted shall be revoked and company shall be disqualified to hold any such Permission in future for a period of five years, apart from liability for punishment under applicable laws.
- 6.7 The Permission holder shall ensure that its facilities are not used for transmitting any objectionable content, messages or communication inconsistent with the laws of India. If the permission holder fails to do so, the permission granted shall be revoked and the permission holder's company shall be disqualified

to hold any such permission in future for a period of five years, apart from liability for punishment under other applicable laws.

- 6.8 The permission holder shall provide access to various content providers/channels on a non discriminatory basis.
- 6.9 The permission holder shall not entire into any exclusive contract for distribution of TV Channels.
- 6.10 The Permission Holder shall comply with the terms and conditions of Wireless Operational License to be issued by the WPC Wing, Ministry of Communication & Information Technology.
- 6.11 The permission holder shall ensure its continued eligibility as applicable throughout the period of permission and adhere to all the terms and condition of the permission, failing which the company shall be liable for penalty as specified in **Article 13** herein after.
- 6.12 The permission holder shall carry all the mandatory channels notified by the Government from time to time for compulsory carriage by the HITS and other broadcast service provider (the permission holder) in his service and in the same manner of reception and retransmission of such other channels.
- 6.13 The Permission Holder shall carry other television channels of Prasar Bharati on the most favorable financial terms offered to any other channel.

## **7. Mandatory Sharing of Certain Broadcast signals with Prasar Bharati**

- 7.1 The permission holder shall ensure that channels carried by and telecasting sporting events have ensured compliance with the provisions of Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharti) Act, 2007

## 8. Technical Standards and Other Obligations

- 8.1 The permission holder shall furnish technical details such as Nomenclature, make, model, name and address of the manufacturers of the equipments / instruments to be used for broadcasting, distribution and reception system, the Block schematic diagram and also demonstrate the facilities for monitoring and storing record for ninety (90) days.
- 8.2 The permission holder shall unlink in '**C**' Band or '**Ku**' Band as has been permitted. Uplinking would be permitted both to Indian as well as foreign satellites. However, where the permission holder company does not have a satellite of its own or of its group company, proposals envisaging use of Indian satellites will be accorded preferential treatment. Satellite to be used should have been coordinated with INSAT system.
- 8.3 The Permission Holder is required to provide signals of its HITS service directly from his satellite only to the registered MSOs/cable operators and under no circumstances should the Permission Holder provide signals of HITS Service directly from his satellite to the consumer. However, he will not be barred from providing signals, through his own cable network if any, to consumers also after first downlinking the signals to his terrestrial receiving station. The signals are to be provided only through QAM set top box.
- 8.4 The Permission Holder is required to provide commercial inter operativebility with respect to its set top boxes so that if the subscribers decide to switch over to any other service provider or platform they should be able to do so at least cost. Commercial

interoperability here would mean that in addition to offering the receiver set on an outright purchase basis, a subscriber should also have the option to purchase it on a hire-purchase basis or rental basis with a provision to return the set top box on such terms and conditions as may be laid down by regulations issued by the Telecom Regulatory Authority of India (TRAI).

- 8.5 The addressability provided to every subscriber should be capable of blocking any unwanted channel or group of channels by the Permission Holder.
- 8.6 The Permission Holder shall ensure subscriber's interests through a Subscriber Management System (SMS) for an efficient, responsive and accurate billing and collection system.
- 8.7 The Permission Holder shall not use any equipment, which is identified as unlawful/or render network security vulnerable.
- 8.8 All content provided by the HITS Service of the Permission Holder to the subscribers, irrespective of its source, shall pass through the encryption and digital addressable system located within the earth-station situated on Indian soil.

## **9. Monitoring and Public Complaints**

- 9.1 The permission Holder at its own cost shall,
  - (i) Preserve the recordings of broadcast material for a period of three months from the date of broadcast and produce the same to the Government or its authorized representative, as and when required; and
  - (ii) On demand by the Government or its authorized representative, provide the necessary equipment, services



and facilities at designated place(s) for continuous monitoring of the broadcasting service by or under supervision of the Government or its authorized representative.

- 9.2 The Permission Holder shall submit/furnish to the Grantor such information with respect to its services as may be required by the Government or its authorized representative, in the format as may be required, from time to time.

## **10. Inspection**

- 10.1 The Government of India, Ministry of Information & Broadcasting or its authorized representative shall have the right to inspect the broadcasting facilities. No prior permission/intimation shall be required to exercise the right of Government or its authorized representative to carry out the inspection. The Permission Holder will, if required by the Government or its authorized representative, provide necessary facilities for continuous monitoring for any particular aspect of the companies activities and operations.
- 10.2 The Government of India, Ministry of Information & Broadcasting or its authorized representative 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.

## **11. National Security and Other conditions**

- 11.1 The Government of India, Ministry of information & Broadcasting shall have the right to take over the entire services and network of the permission holder or revoke/terminate/suspend the permission

or to prohibit broadcasting of any or all of the channels for a specified period in the interest of national security or in the interest of emergency or war or low intensity conflict without giving prior notice to the company. The Permission Holder shall immediately comply with any directives issued in this regard failing which the permission granted shall be revoked and disqualify the company to hold any such Permission in future for a period of five years.

Provided that any taking over or suspension of license, issuance of a directive as described above shall neither be a ground for extension of license period nor any compensation.

- 11.2 The Permission Holder shall not use any equipment, which is identified as unlawful and/or render network security vulnerable.
- 11.3 The Permission Holder shall be required to obtain security clearance of all foreign personnel likely to be deployed for more than 60 days in a year by way of appointment, contract, and consultancy or in any other capacity for installation, maintenance, operation or any other services prior to their deployment.
- 11.4 The Permission shall be subject to permission holder remaining security cleared throughout the currency of permission. In case the security clearance is withdrawn the permission granted is liable to be terminated forthwith.
- 11.5 In the event of security clearance of any of the persons associated with the permission holder or foreign personnel is denied or withdrawn for any reasons whatsoever, he permission holder will ensure that the concerned person resigns or his services terminated forthwith after receiving such directives from the Government failing which the permission granted shall be revoked and the

company shall be disqualified to hold any such Permission in future for a period of five years.

## **12. Value added Services**

12.1 The Permission Holder shall be able to use his network for providing other value-added services which otherwise do not require any specific license or permission. Services which require a specific license or permission from the competent authority can only be provided after obtaining such permission. However the permission holder is required to give prior information of all value added services to be carried by it to the Ministry of information and Broadcasting.

## **13 Termination of Permission**

13.1 Consequences of violation of terms and conditions of the Permission

13.1.1 Subject to the provisions contained in paras 6.6, 6.7, 11.1, 11.4, 11.5 and 13.1.2 in the event of the permission holder violating any of the terms and conditions of Permission. The Government shall have the right to impose the following penalties;

- (a) In the event of first violation, suspension of the Permission and prohibition of broadcast up to a period of 30 days.

- (b) In the event of second violation, suspension of the Permission and prohibition of broadcast up to a period of 90 days.
- (c) In the event of third violation, revocation of the Permission and prohibition of broadcast up to the remaining period of the Permission.
- (d) In the event of the failure of the Permission Holder to comply with the penalties imposed within the prescribed time, revocation of Permission and disqualification to hold any fresh Permission in future for a period of five years.

13.1.2 In the event of suspension/revocation of Permission, the Government shall not be responsible for any investment by the Permission Holder on the service or by any other party on the strength of his permission.

13.1.3 Any suspension/revocation mentioned under this para shall be imposed only after giving a notice, in writing, to the company identifying the violation, providing opportunity to rectify it, if its nature so permits or otherwise show cause, within a period of 15 days and non-satisfaction from such rectification and/or cause so shown shall render the permission holder liable for the proposed suspension/revocation.

## 13.2 Termination for Non-eligibility

13.2.1 The Government may, at any time, terminate this Agreement and the Permission, without compensation to the Permission Holder in case the company fails to

met the eligibility criteria as laid down in these Guidelines or its security clearance is withdrawn or liquidation proceedings are initiated or becomes bankrupt or otherwise insolvent or applies for being adjudicated insolvent / bankrupt, provided that such termination shall not prejudice or affect any right of action which has accrued or will accrue thereafter to the Government.

### 13.3 Termination for Convenience

13.3.1 The permission holder may surrender the Permission by giving an advance notice of one month to the Government as well as to all concerned / affected parties. It is clarified that the permission holder will not be entitled to claim any refund of the non-refundable Entry Fee already paid to the Government.

## **14 WPC Wing's Permission**

14.1 The permission holder shall obtain, a separate Wireless Operational License (WOL), from the WPC Wing of Ministry of Communications & Information Technology, permitting utilization of appropriate frequencies / band for the establishment, maintenance and operation of the HITS platform / facility under usual terms and conditions of such license. The Grant of such License shall be governed by the rules, procedures and guidelines and shall be subject to compliance with all requirements of the WPC Wing of Ministry of Communications & Information Technology.

- 14.2 For this purpose, permission holder shall make an application to the “Wireless Advisor to the Government of India, WPC Wing, Department of Telecommunications, Ministry of Communications & Information Technology,” in the prescribed application form.
- 14.3 License fee / royalty as prescribed by WPC from time to time, shall have to be paid by the permission holder towards grant of License for usage of frequency spectrum.
- 14.4 The permission holder shall not cause harmful interference to other authorized 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.
- 14.5 The Wireless Planning and Coordination Wing, Ministry of Communications & Information Technology shall have the right to inspect from time to time the installation from technical angles to check conformity with Wireless Operational License conditions.

## **15. Force Majeure**

- 15.1 If at any time, during the continuance of this Permission, the performance of any obligation either in whole or in part by any party is prevented or delayed, by reason of war, hostility, acts of enemy, civil commotion, sabotage, fire, flood, act of State, explosion, epidemic, quarantine restriction, natural calamities, general 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 Even**”), neither party shall, by reason of such Force Majeure event be entitled to terminate this Permission, nor shall either party have any claim for damages against the other, in respect of such non-performance or

delay in performance, provided a notice of such happenings of any such Force Majeure Event is given by the affected party to the unaffected party within 30 days from the date of occurrence thereof.

## **16. Disputes with other Parties**

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

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

## **17. Dispute Resolution and Jurisdiction**

17.1 In the event of any question dispute or differences arising between the Central Government and the permission holder with respect to permissions issued under these Guidelines, the same shall be resolved before Telecom Disputes Settlement and Administrative Tribunal as per the provisions of Telecom Regulatory Authority of India Act, 1997.

17.2 The courts at New Delhi shall have the jurisdiction over all disputes.

## **18. Miscellaneous**

- 18.1 The Permission / registration shall be governed by the provisions of the Telecom Regulatory Authority of India Act, 1997, Indian Telegraph Act, 1885 and Indian Wireless Telegraphy Act, 1933 as amended from time to time and any other law as applicable to broadcasting facilities / services which has or may come into force.
- 18.2 The Grantor reserves the right to modify, at any time, the terms and conditions if it is necessary or expedient to do so in public interest or for the proper conduct of broadcasting or in the interest of the security of the State. The decision of the Government shall be final and binding in this regard. This Agreement will be subject to such other conditions as may be determined by the Grantor.
- 18.3 Notwithstanding anything contained anywhere in this Agreement, the grant of Permission shall be subject to the condition that as and when any new regulatory authority is constituted to regulate and monitor the Broadcast Services in the country, the Permission holder shall adhere to the norms, rules and regulations laid down by such authority or any applicable Law to regulate and monitor the Broadcast Service in India.



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

**Signed Executed and Delivered on behalf of**

**President of India by Under Secretary (BP&L)**

\_\_\_\_\_

( Seal )

**Signed Executed & Delivered on behalf of \_\_\_\_\_**

**through its Registrar / Authorized Signatory / authorized representative**

( Seal )

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## PROFORMA FOR PERFORMANCE BANK GUARANTEE

To:

The President

Acting through Ministry of Information & Broadcasting

Shastri Bhavan,

New Delhi - 110 001

In consideration of the President acting through Ministry of Information & Broadcasting (the Grantor) having received an application for Grant of Permission to \_\_\_\_\_ to establish, maintain and operate HITS services at \_\_\_\_\_ on the terms and conditions of the application and the Grant Permission Agreement to be executed between the Grantor and the Permission Holder. \_\_\_\_\_, (here in called "GOPA") wherein it has been stipulated that the Permission Holder shall furnish to the Grantor with a performance bank guarantee from a scheduled bank for the sum specified therein as security for the due observance and compliance of the terms and conditions with the said Permission, if granted subject to the fulfilment of the eligibility conditions laid down by the Grantor.

Whereas we \_\_\_\_\_ Bank, (indicate the name, address and other particulars of the Bank) (hereinafter referred to as the "Bank") hereby irrevocably and unconditionally guarantee to the Grantor that the Permission Holder which expression shall, unless repugnant to the context or meaning thereof, include all its successors, administrators and executors and assignees shall render all the necessary services in accordance with the terms and conditions of the permission, if granted, and which may be required for and in connection with the said Permission and performance thereof to the satisfaction of the Grantor.

NOW THEREFORE we hereby affirm that we are the guarantor and responsible to you, on behalf of the Permission Holder up to a total RS. (Rs. in words) payable and we undertake that in the event of Grantor coming to the conclusion that the Permission Holder has not performed their obligations under the said conditions of the GOPA, or have committed a breach thereof, which conclusion shall be binding on us as well as the Permission Holder, we shall on demand by the Grantor, undertake to pay you, upon your first written demand and without cavil, demus or argument, any sum or sums within the limits of Rs.

(Rs. In words) as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specific therein and /or without any reference to the Permission. Further any such demand made by the Grantor on the bank shall be conclusive and binding notwithstanding any difference between the grantor and the Permission Holder 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 Permission Holder and will remain valid, binding and operative against the bank. We undertake to pay the amount claimed by the Licensor within a period of one week from the date of receipt of notice as aforesaid.

We, the Bank, do hereby agree that the decision of the of the Grantor as to whether the Permission Holder has failed to commence, delayed or neglected to perform or discharge his duties and obligations and/or whether the service is free from deficiencies or defects and is in accordance with or not of the terms and conditions of the said Permission and as to the amount payable to the Grantor by the bank hereunder, shall be final and binding on the bank. Any dispute between the Grantor and the Permission Holder shall not affect our obligation under this guarantee.

We hereby waive the necessity of your demanding the said debt from the Permission Holder before presenting us with the demand and guarantee that we are the primary obligee and not just the surety of the Permission Holder.

We further agree that no addition to or other modification of the terms of the Permission or of the works to be performed there under or of any of the Permission documents shall in any way release us from the 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 Permission period of \_\_\_\_\_ years. It shall also continue to be enforceable till all the dues of the Grantor under and by virtue of the said Permission have been duly paid and its claims satisfied or discharge or till Grantor informs that all the terms and conditions of the said Permission have been fully and properly carried out by the said Permission Holder and accordingly discharged this guarantee.

- (b) The Grantor shall have the fullest liberty without our consent and discharged in any manner our obligations hereunder to vary of the terms and conditions of the said Permission or to extend time of performance of any obligations by the said Permission Holder from time or to postpone for any time or from time to time any of the powers exercisable by the Grantor against the Permission Holder and to forbear or to enforce any of the terms and conditions relating to the said Permission and we shall not be relieved from any liability by reason of any variation or extension being granted to the said Permission Holder Grantor and Permission Holder or forbearance act or omission on the part of the Grantor or any indulgence by the Grantor to the said Permission Holder 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 Permission Holder shall be subject and subordinate to the prior payment and performance in full of all the obligations of us hereunder and we shall not without prior written consent of the Grantor 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 Permission Holder.
- (e) The Bank will not revoke the guarantee during the currency except with the previous consent of the Grantor.

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 Permission Holder. The guarantee shall be valid for a period of three years from this date and until 28 days after the date of issue of the Roll out obligation certified by the Ministry of Information & Broadcasting.

SIGNATURE AND SEAL OF THE GUARANTOR  
 \_\_\_\_\_ OF  
 NAME BANK \_\_\_\_\_

ADDRESS \_\_\_\_\_

DATE \_\_\_\_\_

In the presence of:

1. \_\_\_\_\_

(Name and Occupation)

2. \_\_\_\_\_

(Name and Occupation)