

“Freeview” AERIAL INSTALLER TRADE MARK LICENCE

THIS LICENCE dated _____
is made BETWEEN:

_____ a company incorporated under the laws of _____ with company registration no. _____ whose principal office is at: _____ (the “Licensee”); and

DTV Services Limited

a company incorporated under the laws of England with company registration no. 04435179 whose principal office is at: 27-29 Cursitor Street, London EC4A 1LT, United Kingdom (“the Licensor”)

IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS HEREIN IT IS AGREED AS FOLLOWS

1. Definitions

In this Licence the following terms shall have the meaning set out below:

“Aerial Installer Services Guidelines” - the guidelines for use of the Trade Marks with which aerial installers must comply attached hereto in Schedule 2 as amended from time to time by the Licensor in its sole discretion.

“Amendment” - any amendment to the Brand Guidelines or Aerial Installer Services Guidelines, or to the form of a Trade Mark.

“Brand Guidelines” - the brand guidelines attached hereto in Schedule 4 as amended from time to time by the Licensor in its sole discretion.

“Effective Date” - the date of this Agreement.

“Free to View” – unencrypted and made available to consumers without payment.

“Freeview Marketing Website” - the marketing support website entered from <http://www.freeview.co.uk/marketing>.

“Initial Term” – 2 years from the Effective Date.

“Installation” – a domestic aerial system using Confederation of Aerial Industries Limited (“CAI”) benchmarked components including aerials, cables, wall plates and fly leads as detailed on the CAI website from time to time.

“Licence” – this Agreement and its schedules.

“Publicity Material” - any paper-based or online promotional material as well as signage on vans and motor vehicles, produced by the Licensee for the purpose of promoting the reception of the Services by means of an Installation.

“Services” - the collection of Free to View television, radio and interactive (including text and multistream) channels and services provided under the Trade Marks and available on the UK digital terrestrial television (“DTT”) platform from time to time.

“Subsidiary” – any company which is a subsidiary of the Licensor from time to time, subsidiary having the meaning set out in section 1159 of the Companies Act 2006.

“Term” - the period this Licence is in force, subject to clause 5.

“Territory” – the United Kingdom, the Channel Islands and the Isle of Man.

“Trade Marks” - the word marks and devices (i.e. trade marks consisting of or including graphic elements) set out in Schedule 1 (or any of them).

“To use” - to make use of and/or reproduce.

2. Licence

2.1 The Licensor grants to the Licensee during the Term a royalty-free, non-exclusive, non-transferable right in the Territory to use the Trade Marks in or on Publicity Material subject to the terms and conditions of this Licence.

2.2 The Licensee shall not use or distribute or display to the public any Publicity Material carrying the Trade Marks unless and until such Publicity Material has been approved by the Licensor in accordance with the Approvals Procedure set out in Schedule 3 (as amended from time to time by the Licensor in its sole discretion).

2.3 The Licensee shall only use the Trade Marks:

2.3.1 in the form supplied by the Licensor;

2.3.2 in a manner acceptable to the Licensor and in accordance with the Licensor’s high quality standards, goodwill and reputation; and

2.3.3 strictly in accordance with the Aerial Installer Services Guidelines and Brand Guidelines.

2.4 In the event of any Amendment, the Licensee shall not produce any item of Publicity Material that does not comply with the Amendment, after the date of notification of the Amendment under clause 2.9 (“Notification Date”). The Licensee may use and distribute Publicity Material produced prior to the Notification Date that does not comply with the Amendment for a period of six months from the Notification Date, after which such non-compliant Publicity Material shall be destroyed.

2.5 The Licensee shall not use the Trade Marks in a manner that misrepresents the Licensee’s association with the Licensor and, in particular, shall not use a Trade Mark as part of a business or company name.

2.6 The Licensee shall not apply the Trade Marks directly to any Installation or any other product of any sort, or to their packaging.

2.7 The Licensee shall not use any Trade Mark in such a way as to suggest or imply that a) it is a kite mark or a standard for the functionality or technical specification of an Installation; or b) the Licensee, an Installation, a product or a system is in any way endorsed or manufactured, produced or distributed by the Licensor. In particular, Installations may be marketed as products that can receive the Services, but shall not be referred to as “Freeview” products. In addition, the primary branding of the Installation and other products and Publicity Material shall be the Licensee’s own trade mark(s) (or those licensed to it) rather than the Trade Marks.

2.8 The Licensee undertakes that its use of the Trade Marks shall preserve, promote and not undermine the goodwill in

the Trade Marks, and that the Publicity Material and any Installation installed by or on behalf of the Licensee shall be:

2.8.1 of good and high quality in design, material and workmanship;

2.8.2 safe, non-injurious and suitable for the intended purpose; and

2.8.3 produced, distributed, sold, marketed and advertised in strict compliance with this Licence, the rights of any other party and all applicable laws, codes of practice, standards and regulations in effect in the Territory and shall include appropriate warnings.

2.9 The Licensee must consult the Freeview Marketing Website and comply with the Brand Guidelines when producing Publicity Materials. The Licensee shall be deemed to have been notified of an Amendment on the date on which the Licensor sends a notification of an Amendment to the Licensee. The Licensee must inform the Licensor of the relevant contact details for notification and any changes to such details as soon as possible after any change.

3. Rights in and Registration of the Trade Marks

3.1 The Licensee acknowledges and agrees that:

3.1.1 the Licensor is the proprietor of the Trade Marks and any copyright subsisting in, and all goodwill relating to, the Trade Marks is owned by the Licensor;

3.1.2 the benefit of all use of the Trade Marks and any additional goodwill accrued as a result of the Licensee's activities in connection therewith shall accrue to the Licensor;

3.1.3 the Licensee will not make any representation or do any act which may be taken to indicate that it has any right, title or interest to the ownership or use of the Trade Marks except under the terms of this Licence;

3.1.4 the Licensee will not use any of the Trade Marks in a manner likely to prejudice their legal protection or validity. In particular, without prejudice to the generality of the foregoing, the Licensee shall ensure that if any other logos and/or trade marks are used or incorporated on the Publicity Material they are kept separate from the Trade Marks and are not used in any manner which could lead to confusion as to the ownership of the Trade Marks;

3.1.5 except as provided by this Licence, the Licensee will not make use of the name of the Licensor or any of its Subsidiaries (present or future) or of any other trade mark, design, copyright or other intellectual property in which the Licensor or any of its Subsidiaries has proprietary rights;

3.1.6 any trade mark application in respect of the Trade Marks may be made only by the Licensor and the Licensee will not make or attempt to make any such trade mark application. Subject to sub-clause 3.1.8, the Licensee shall, if so required by the Licensor, co-operate with the Licensor in securing or attempting to secure registration of the Trade Marks anywhere in the Territory (which shall include providing such written details and further samples of the Publicity Material as the Licensor may reasonably request);

3.1.7 subject to sub-clause 3.1.8, the Licensee will, on receipt of a request from the Licensor, enter into any further agreements or execute any documents deemed necessary by

the Licensor in order to give effect to sub clause 3.1.2 and/or to secure any registrations or cancellations pursuant to sub clause 3.1.6;

3.1.8 the Licensee's reasonable out of pocket costs in complying with sub-clauses 3.1.6 and 3.1.7 shall be met by the Licensor; and

3.1.9 the Licensor shall have no obligation to register, or maintain registrations for, the Trade Marks.

3.2 The parties hereby acknowledge and agree that neither shall acquire rights in the other's trade marks by virtue of their use in connection with the Publicity Material.

4. Trade Mark and Copyright Notices

Unless otherwise agreed by the Licensor during the Approvals Procedure in Schedule 3, the Licensee shall cause to appear in or on any Publicity Material on which the Trade Marks appear the following notice (or the relevant part thereof as appropriate):

"FREEVIEW and the FREEVIEW logo are trade marks of DTV Services Ltd and are used under licence. Freeview Logo © DTV Services Ltd."

and/or such other legends, markings or notices and in such locations and sizes as the Licensor may from time to time require (and as are lawful) in order to give appropriate notice of the Licensor's trade mark or other intellectual property rights.

5. Termination

5.1 This Licence shall continue indefinitely unless and until terminated in accordance with this clause 5.

5.2 At any time after the end of the Initial Term, either party may terminate this Licence by giving the other party not less than thirty (30) days' written notice.

5.3 The Licensor may terminate this Licence immediately on the giving of written notice to the Licensee if:

5.3.1 the Licensee commits a breach of any of the obligations and conditions imposed upon it by this Licence (including for the avoidance of doubt, a breach of the Aerial Installer Guidelines and/or Brand Guidelines) and does not remedy such a breach (if capable of remedy) within thirty (30) days after receiving written notice from the Licensor to do so; or

5.3.2 the Licensee uses the Trade Marks in a manner unacceptable to the Licensor or brings any of the Trade Marks into disrepute; or

5.3.3 the Licensee makes any representation or does any act which may be taken to indicate that it has any right, title or interest to the ownership or use of the Trade Marks except under the terms of this Licence; or

5.3.4 the Licensee undergoes any change in control. The Licensee is required immediately to give written notice to the Licensor following any such change in control; or

5.3.5 the Licensee ceases to carry on business, goes or is put into receivership, administrative receivership, administration or liquidation or makes an arrangement for the benefit of its creditors or takes or suffers any similar action in consequence of any debt; or

5.3.6 the Licensee challenges the validity of any of the

Trade Marks.

5.4 Upon termination of this Licence, and provided that the Licensee is not in breach of this Licence, the Licensee shall, to the extent it is entitled under this Licence during the Term, be entitled to continue to use the Trade Marks on Publicity Materials for a further six (6) month period from the date of termination, for the sole purpose of using up Publicity Material manufactured during the Term.

5.5 Subject to clause 5.4, on termination of this Licence for any reason, except as otherwise agreed by the Licensor in writing, the Licensee shall immediately cease using the Trade Marks in any form and the Licensee shall: (i) (at the Licensor's sole option) destroy or deliver up to the Licensor all materials (except for any vans and/or motor vehicles) in the Licensee's possession or control bearing the Trade Marks; and (ii) remove the Trade Marks from any vans and/or motor vehicles owned, rented or controlled by the Licensee; and all rights granted under this Licence shall immediately revert to the Licensor.

5.6 Termination of this Licence shall be without prejudice to the accrued rights of each party at the date of termination.

5.7 Clauses 3.1.7, 3.1.8, 5.4, 5.5, 5.6, 7, 8 and 10 shall survive termination of this Licence and shall continue in full force and effect.

6. Infringement by third parties

The Licensee shall immediately give written notice to the Licensor of any actual, threatened or suspected infringement by a third party of any of the Licensor's rights in and to the Trade Marks which may come to the Licensee's attention. The Licensor shall not be under any obligation to take any legal or other action against any such third party.

The Licensee shall not be entitled to bring proceedings under section 30 of the Trade Marks Act 1994.

7. Indemnity

7.1 The Licensee shall be liable for, and shall defend, indemnify and hold harmless the Licensor including, for the purposes of this clause, its directors, secretary, officers, servants, agents, employees and shareholders, against all professional expenses, liabilities, claims, judgments, actions, debts or rights of action (of whatever kind), and all costs (including legal costs), damages, legal fees, losses, expenses penalties, fines (criminal or civil), or other payments, of any nature whatsoever incurred or suffered by the Licensor, excluding those of an indirect or consequential nature (but including loss of goodwill relating to the Trade Marks) which arise out of, or are caused by, or result from any dispute or contractual, tortious or other claims or proceedings brought against the Licensor by reason of the acts or omissions of the Licensee or of its employees, agents or subcontractors.

7.2 The Licensee's maximum liability under clause 7.1 shall be:

7.2.1 unlimited in relation to any sums owed to the Licensor under clause 7.1 arising out of or resulting from unsafe or otherwise defective products or Installations; and

7.2.2 limited to £5,000,000 (five million pounds sterling) in relation to all other sums owed to the Licensor under clause 7.1.

7.3 The limitations of liability set out in clause 7.2 shall not extend to death or personal injury resulting from the negligence of the Licensee and /or its servants or agents nor to any other liability which the Licensee is prohibited from excluding by law.

7.4 The Licensee acknowledges that it is solely liable for any Installation which is unsafe and/or defective, and/or which does not meet any requirements mandated by law or regulation, and that irrespective of any approvals given by the Licensor under the Aerial Installer Services Guidelines or otherwise, the Licensor shall not be liable for any such Installation and its rights under this Licence shall continue to apply.

7.5 The Licensee shall arrange and maintain with a reputable insurer adequate public liability, product liability and errors and omissions insurance which shall be no less than five million pounds sterling (£5,000,000) and with scope of cover appropriate to the liability of the Licensee in respect of any one claim or incident. For the avoidance of doubt, such minimum insurance level shall not be a limit of liability under this Licence. The Licensee shall produce to the Licensor on demand copies of the insurance policies maintained in accordance with the terms of this clause, and receipts for premiums required to be paid in relation to such policies.

8. Address for Notices

Except for notifications given under clauses 2.2, 2.9, 3.1.7, and 4, which may be sent to the email address provided by the Licensee from time to time, all notices given by the parties under this Licence shall be in writing and delivered by registered post, airmail or facsimile (with a copy posted) to the respective addresses or facsimile numbers of the parties as advised from time to time.

9. Assignment and Sub-Licensing

9.1 This Licence is personal to the Licensee which shall not assign, transfer, sub-license, mortgage, charge, or in any other way dispose of or purport to dispose of its rights or obligations under this Licence.

9.2 Without prejudice to the generality of clause 9.1 above, the Licensor acknowledges that third parties may be subcontracted to print or produce the Publicity Material for the Licensee. Such third parties shall not be permitted to distribute the Publicity Material to any party other than the Licensor and/or the Licensee, or deal with the Publicity Material in any other way.

10. General

10.1 Nothing in this Licence shall constitute or be deemed to constitute a partnership between the parties or constitute or be deemed to constitute either party as agent of the other for any purpose whatsoever and neither party shall have authority or power to bind the other or to contract in the name of the other in any way or for any purpose.

10.2 No amendment of the terms of this Licence shall be valid or binding unless made by prior written agreement between the parties and signed by their duly authorised representatives.

10.3 No waiver by either party of a breach or a default hereunder shall be effective unless in writing and signed by both parties and any such waiver shall not be deemed to be a waiver of any subsequent breach or default of the same or similar nature. No failure or delay by either party in exercising any rights, power or privilege under this Licence shall operate as a waiver thereof nor shall any single or partial exercise by any party of any right, power or privilege preclude any further exercise thereof or the exercise of any other right, power or privilege.

10.4 To the extent permitted by English or any other applicable law all provisions of this Licence shall be severable and no provision shall be affected by the invalidity or unenforceability of any other provision.

10.5 No person who is not a party to this Licence has or shall have any right under the Contracts (Rights of Third Parties) Act to enforce any term of this Licence, except for any other beneficiary of the indemnity given in clause 7 who shall be entitled to enforce the provisions of clause 7 of the Licence. Notwithstanding the above, the consent of any other beneficiary of the indemnity in clause 7 shall not be required in order to vary or terminate this Licence by agreement. Nothing in this Licence shall confer or purport to confer on any other third party any benefit or the right to enforce any term of this Licence.

10.6 This Licence represents the entire understanding between the parties relating to the subject matter of this Licence and supersedes any prior agreement, representations, understandings or arrangements whether written, oral or in any other format, between the parties relating to the subject matter of this Licence.

10.7 This Licence shall be interpreted in accordance with the laws of England and Wales and any dispute or other matter arising hereunder shall at the option of the Licensor be subject to the exclusive jurisdiction of the English courts.

Name _____
Title _____
Date _____

SIGNED for and on behalf of the **Licensee**:

Signature _____
Name _____
Title _____
Date _____

DULY EXECUTED

SIGNED for and on behalf of the **Licensor**

Signature _____

SCHEDULE 1

Word Mark: "Freeview"

Logo:



SCHEDULE 2

Aerial Installer Services Guidelines

The Trade Marks may be used under the terms of the Licence provided that:

1. the Licensee is registered with the Confederation of Aerial Industries Limited (co. reg. no. 02446678) (“CAI”) and/or the Registered Digital Installer Licensing Body Community Interest Company (co. reg. no. 05601094) (“RDI-LB”) and has provided its CAI number and/or RDI-LB certificate reference to the Licensor;
2. the Licensee holds a current Registered Digital TV Aerial Installer Company Licence or Registered Digital TV Aerial Installer Licence with RDI-LB for the use of the digital switchover certification marks (including the Digital Tick logo);
3. the Licensee commits to making coverage checks to ensure high probability of sale or reception to customers who are within the DTT reception area;
4. the Licensee informs the customer where, because of the digital frequencies in use in certain areas, there is a high probability that a new (wideband) aerial is needed;
5. the Licensee advises on connections and where appropriate offers any supplementary equipment required;
6. the Licensee supplies the Licensor with advance details of marketing activity incorporating the Trade Marks and obtains written approval prior to use of the relevant materials;
7. The logo is not added or used on any vehicle which is older than five (5) years from its first date of registration.

SCHEDULE 3

Approvals Procedure

1. For the purpose of this Schedule 3 “Samples” shall mean (i) where the Trade Marks are to be used on a live webpage, a screen shot or other representation of the format of the webpage (as appropriate) and the proposed address of the web-page, or (ii) in any other case two (2) true and accurate samples of any item of proposed Publicity Material.

The Licensee shall provide Samples to the Licensor together with a written request for approval of them at least three (3) working days before producing the Publicity Material.

2. Where practicable, the Licensor shall use reasonable efforts to inform the Licensee whether or not the Samples are acceptable within three (3) working days of receipt of the Licensee’s request for approval.

3. The Licensee warrants that the Publicity Material shall conform in every way to the Samples as approved by the Licensor and undertakes that:

3.1 it will make no use of any of the Trade Marks or of the Publicity Material other than for the purposes of complying with paragraph 1 above unless and until the Licensee has the express written approval of the Licensor;

3.2 it will not make any alterations, modifications or changes to the Publicity Material once they have been approved by the Licensor without the specific written

consent of the Licensor (and, for the avoidance of doubt, any breach of this clause shall constitute a material breach of this Licence for which damages may not be an adequate remedy, and the Licensee acknowledges that, in addition to any other remedies available at law, in equity or under this Licence, the Licensor shall be entitled to obtain injunctive relief from a court of competent jurisdiction to restrain any such breach and in particular the distribution of any such amended items);

3.3 for on-line use, it will email the Licensor a link to the webpage on the day it goes live and inform the Licensor immediately of any change to the web address; and

3.4 in cases other than for on-line use, it will supply to the Licensor free of charge, upon request by the Licensor, samples of the Publicity Material as manufactured, sold or issued.

4. The address to which Samples shall be sent is (or such other address notified by the Licensor to the Licensee):

Name: Neema Shah
Brand Manager
Address: FREEVIEW
27-29 Cursitor Street
London, EC4A 1LT
Email: neema.shah@freeview.co.uk
Tel: +44 (0) 20 7269 0856

SCHEDULE 4

Brand Guidelines