

Schedule 16: Trade Mark Licence**Introduction**

This Schedule attaches the Trade Mark Licence.

TRADE MARK LICENCE

Date: 2011

BETWEEN

The BBC **THE BRITISH BROADCASTING CORPORATION** a public corporation incorporated under the laws of England and Wales by Royal Charter whose principal office is at Broadcasting House, Portland Place, London, W1A 1AA

AND

The Licensee **CAPITA BUSINESS SERVICES LIMITED** whose company number is 2299747 and whose registered office is situated at 71 Victoria Street, Westminster, London SW1H 0XA

In consideration of the Licensee having signed the Main Agreement, the BBC grants to the Licensee a non-exclusive licence to use, and the Licensee undertakes to use, the Trade Marks in the Territory during the Term on Products and Associated Material subject to the terms and conditions of this Agreement, including the General Terms ("this Licence").

In this Licence, the following Special Definitions apply:

Main Agreement: An Agreement made between the BBC and the Licensee and dated 5 December 2011 pursuant to which this Licence is granted.

The Trade Marks: The word marks: TV Licensing
Cash Easy Entry
Monthly Cash Plan
TV Licensing Savings Card



(or in such other forms as the BBC may from time to time direct)

Associated Material: The list below is exhaustive and not illustrative:

- Paper-based informative literature;

- Packaging material (including if appropriate inlays and sleeves);
- Promotional material in any medium, including on the internet;
- Information made available via mobile telephones & networks; and
- All other Customer-facing documentation (as the term "Customer" is defined in the Main Agreement).

The Trade Mark Notice (General Term 6): "TV Licensing is a trade mark of the British Broadcasting Corporation and is used under licence 2000 © BBC."

Licensee's address for notices (General Term 10): Capita Business Services Limited, 71 Victoria Street, Westminster, London SW1H 0XA
Attention: Head of Legal and Commercial Group

Address for copies of notices to the BBC (General Term 10): TV Licensing, British Broadcasting Corporation, Room 4436 White City, 201 Wood Lane, London W12 7TS
Attention: Head of Revenue Management

Time limits for submitting samples (General Term 4.2): 30 days prior to intended first use

Time limits relating to approval (General Term 4.2): Within 15 days of receipt

BBC's address for samples (General Term 4.2 and/or 4.4): TV Licensing, British Broadcasting Corporation, Room 4436 White City, 201 Wood Lane, London W12 7TS
Attention: Head of Revenue Management

If any special conditions apply, they are set out below:

N/A

DULY EXECUTED

SIGNED for and on behalf of the BBC

Signature.....

Name.....

Title.....

Date.....

Signature.....

Name.....

Title.....

Date.....

SIGNED for and on behalf of the Licensee

Signature.....

Name.....

Title.....

Date.....

GENERAL TERMS**1 Definitions**

- 1.1 Terms defined in the Main Agreement shall, unless separately defined below or in the Special Definitions, or the context otherwise requires, have the same meaning in this Licence.
- 1.2 In this Licence, unless the context otherwise requires, the following terms shall have the meanings given to them and the singular shall include the plural and vice versa:

"Associated Material"	means items of the types described in the Special Definitions (if any) and which are produced for the purpose of advertising and marketing the Products;
"BBC Group"	means the BBC and its present or future Subsidiaries;
"company"	includes any body corporate wherever and however incorporated or established;
"Group"	means, in relation to a company, that company and any company which is a Holding Company of that company or a Subsidiary of that company or of such Holding Company;
"Licensed Product"	means any Product or Associated Material on which any of the Trade Marks appear pursuant to this Licence;
"On-line"	means by means of display and/or distribution via electronic means including but not limited to the World Wide Web, mobile or cellular telephones and networks, interactive TV, or other screen-based mechanisms;
"Product"	means anything produced and/or distributed pursuant to the Main Agreement;
"Samples"	means (where the Trade Marks are to be used On-line) (1) a screen shot or other representation of the display of the proposed Licensed Product, or sufficient information to enable the BBC to access it and (2) details of the proposed Online location of the Licensed Product (eg the url), or (in any other case) two (2) true and accurate samples of each Licensed Product;
"Special Definition"	means the definitions given on the front page of this Agreement;
"Subsidiary"/ "Holding Company"	A company is a Subsidiary of another company (its Holding Company) if that other company controls it, directly or indirectly (whether through one or more subsidiaries);
"Term"	means the term under the Main Agreement together with any variation, extension or renewal of such term;

"Territory"	means the countries in which rights may be exercised by the Licensee under the Main Agreement;
"Trade Marks"	means the word mark(s) and/or device(s) (including logos) described in the Special Definitions and, if permitted under and agreed pursuant to the Main Agreement, translations or transliterations of them and/or alternatives to them; and
"to control"	in this clause 1 and in clause 7.2.4 of this Agreement means to have the ability to direct the affairs of the entity concerned whether by virtue of contract, ownership of shares, voting rights or otherwise, and the noun "control" shall have a corresponding meaning.

2 Territory

- 2.1 Subject to clause 2.2, the Licensee shall not sell, supply, market or advertise for sale outside the Territory any item on which any Trade Mark is used. If the Territory is not the world, On-line Licensed Products (if permitted under this Licence) shall be clearly directed at the Territory.
- 2.2 If the Territory includes a part of the European Economic Area as from time to time constituted or of any successor organisation ("**the EEA**"), the Licensee shall be entitled to fulfil unsolicited requests to purchase a Licensed Product from third parties situated outside the Territory but within the EEA.

3 Quality Control

- 3.1 The Licensee shall use the Trade Marks in accordance with the BBC's Fair Trading Guidelines and the TV Licensing Brand Guidelines as set out in Schedule 8 (**BBC Policies and Standards**) of the Main Agreement, any style guidelines relating to the Trade Marks (if the mark "BBC" is licensed, the relevant guidelines can be accessed on the BBC website bbc.co.uk), and any other relevant guidelines provided to the Licensee from time to time, and hereby undertakes that the Licensed Product shall be:
 - 3.1.1 of good quality in design, material, and workmanship;
 - 3.1.2 safe, non-injurious and suitable for the intended purpose;
 - 3.1.3 in keeping with the reputation associated with the BBC and/or the Trade Marks both in the manner and context of the use;
 - 3.1.4 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 and be labelled so that the manufacturer of them is clearly identifiable; and
 - 3.1.5 approved by the BBC (or on its behalf by the member of the BBC Group which is signatory to the Main Agreement) in accordance with the provisions of clause 4 of this Agreement.

4 Sample Approval

- 4.1 If the Main Agreement contains provisions for the approval of samples by the member of the BBC Group which is signatory to it prior to use, the procedure for the approval of samples set out in the Main Agreement (with the exception of any provision for deemed approval) shall apply to approval of samples under this Licence.
- 4.2 If the Main Agreement contains no provisions for the approval of samples by the member of the BBC Group which is signatory to it prior to use, the Licensee shall provide Samples to the BBC at the address specified in the Special Definitions, together with a written request for approval of them, within the time limit specified in the Special Definitions, and the BBC shall use reasonable efforts to inform the Licensee whether or not the Samples are acceptable within the time limit specified in the Special Definitions. If the Licensee does not receive notice that the Samples are acceptable, they are deemed unacceptable.
- 4.3 The Licensee may submit a Sample to the BBC at the address specified in the Special Definitions with a request that it be approved as a "Format", indicating which elements of it will be constant in each version produced. The BBC shall be under no obligation to grant approval as a Format, and may do so on such conditions as it sees fit. If a Format is approved by the BBC, Licensed Products in that format (an **"Approved Format"**) may be produced by the Licensee without the need to obtain approval to each version provided that:
- 4.3.1 the constant elements are in accordance with the Approved Format;
 - 4.3.2 the requirement to supply copies contained in clause 4.4 of this Agreement is complied with;
 - 4.3.3 where the use is On-line, the Licensee will within 24 hours of receipt of a notice from the BBC remove the Trade Marks if the use does not comply with the Approved Format or if the BBC reasonably requests changes and such requests have not been complied with within 24 hours of the receipt of the request; and
 - 4.3.4 the BBC may at any time by notice to the Licensee withdraw approval of an Approved Format under this clause 4.3 (so as to require the Licensee to obtain the BBC's prior approval of samples of each use).
- 4.4 The Licensee warrants that the Licensed Product shall conform in every way to the Samples as approved by or on behalf of the BBC and undertakes that:
- 4.4.1 it will make no use of any of the Trade Marks or of the Licensed Product other than for the purposes of complying with clauses 4.1, 4.2 or 4.3 as appropriate unless and until the Licensee has the express prior written approval of the BBC;
 - 4.4.2 it will not make any alterations, modifications or changes to the Licensed Product without the prior specific written consent of the BBC. If any changes are made, the provisions of clauses 4.1, 4.2 or 4.3 as appropriate shall apply; and
 - 4.4.3 it will supply to the BBC free of charge further Samples of the Licensed Product as issued no later than the first day on which the Licensed Product is so released, and, upon request by the BBC (at intervals not more frequent than quarterly) and at the BBC's cost (which shall be at cost or the best trade price if greater), supply to the BBC

further Samples of the Licensed Product as manufactured, sold, issued or made available.

5 Rights in and Registration of the Trade Marks

5.1 The Licensee acknowledges and agrees that:

- 5.1.1 the BBC is the proprietor of the Trade Marks, any copyright, design rights and other Intellectual Property Rights subsisting in and the goodwill relating to the Trade Marks;
- 5.1.2 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 inure, and is hereby assigned, to the BBC;
- 5.1.3 the Licensee will not use 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 Licensed Product they are kept separate from, and are not used in any manner which could lead to confusion as to the ownership, the identity or the distinctive character of, the Trade Marks;
- 5.1.4 except as permitted by law or as expressly provided by this Licence or any other written agreement between the parties, the Licensee will not make use of the Trade Marks, the name of the BBC or any of its Subsidiaries (present or future) or of any other trade mark, design, copyright or other intellectual property in which the BBC has proprietary rights;
- 5.1.5 no application for trade mark nor (unless expressly permitted in writing by the BBC) for domain name registration of, or including, any of the Trade Marks may be made other than by the BBC. The Licensee shall if so required by the BBC at the BBC's sole cost co-operate with the BBC 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 Licensed Product as the BBC may reasonably request);
- 5.1.6 the BBC may register the Licensee as licensee or registered user of the Trade Marks in any part of the Territory where registration is necessary or desirable in accordance with the applicable trade mark law and such registration may be cancelled by the BBC on expiry or earlier termination of this Licence for whatever reason;
- 5.1.7 the Licensee will on receipt of a request from the BBC enter into any further agreements or execute any documents reasonably required by the BBC in order to give effect to clause 5.1.6 of this Agreement and/or to secure any registrations or cancellations pursuant to clause 5.1.6 of this Agreement. If registration is at the request of the Licensee, the Licensee shall bear the costs of such registration but in any other case the Licensee's reasonable costs shall be met by the BBC.

6 Trade Mark and Copyright Notices

The Licensee shall cause to appear on every Licensed Product the notice(s) specified in the Special Definitions and/or such other markings or notices and in such locations and sizes as the BBC may from time to time require in order to give appropriate notice of the BBC's trade mark or other Intellectual Property Rights.

7 Termination

- 7.1 Subject to Clause 34 of the Main Agreement, sub-clauses 7.2 and 7.4 of this Agreement, this Licence shall terminate on the termination or expiry of the Main Agreement for whatever reason save that if the Main Agreement provides for a sell-off period after expiry or termination the Licensee shall have the non-exclusive right to use the Trade Marks on the items covered by this Licence for the duration of the sell-off period subject to the terms and conditions of this Licence.
- 7.2 The BBC may terminate this Licence immediately on the giving of written notice to the Licensee if:
- 7.2.1 the Licensee commits a breach of any of the terms of this Licence or the Main Agreement and fails to remedy such a breach (if capable of remedy) within 30 (thirty) days (or such shorter reasonable period as is specified in the notice) after receiving written notice from the BBC to do so; or
 - 7.2.2 the Licensee makes or authorises any representation or does or authorises 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
 - 7.2.3 the Licensee or any company within its Group challenges the validity of or the BBC's title to any of the Trade Marks; or
 - 7.2.4 control (as defined in section 435 of the Insolvency Act 1986) of the Licensee or any Holding Company of the Licensee is acquired by any person or group of associates (as defined in that section) not having control of it at the date of this Licence (except where such change of control is due to a restructure of the group of companies of which the Licensee or such Holding Company forms part and has been approved by the BBC in writing in advance) and such change of control results in a Fundamental Concern (as defined in the Main Agreement); or
 - 7.2.5 any material step is taken with a view to the Licensee ceasing to carry on business, or going or being put into receivership, administrative receivership, administration, bankruptcy, liquidation or any equivalent process in any relevant jurisdiction; or
 - 7.2.6 the Licensee fails to comply with a notice served under clause **Error! Reference source not found.**, **Error! Reference source not found.** or 4.3.3.
- 7.3 The Licensee will immediately notify the BBC of any event giving the BBC the right to terminate under clause 7.2.4 or 7.2.5.

- 7.4 Either party may terminate this Licence forthwith on written notice if the continued performance of it is prevented for a period of 60 (sixty) days or more by reason of an event beyond the reasonable control of either party.
- 7.5 On termination of this Licence or, if relevant, any sell-off period provided for by the Main Agreement, the Licensee shall immediately cease using the Trade Marks in any form and all rights granted under this Licence shall immediately revert to the BBC. Termination of this Licence shall be without prejudice to the accrued rights of each party at the date of termination.
- 7.6 Clauses 5.1.6, 7.5, 9 and 12.2 shall survive termination or expiry of this Licence

8 Infringement

- 8.1 The Licensee shall immediately give full particulars in writing to the BBC of:
- 8.1.1 any actual, threatened or suspected infringement by a third party of any of the BBC's rights in and to the Trade Marks which comes to the Licensee's attention. The BBC shall not be under any obligation to take any legal or other action against any such third party. Should the BBC decide to take action against any such third party, the Licensee shall provide such cooperation or assistance in this connection as the BBC may reasonably request, including but not limited to joining the action as a party, the Licensee's reasonable costs for doing so being reimbursed by the BBC. The Licensee shall not be entitled to bring any action for infringement of the Trade Marks in its own name or on its own behalf;
- 8.1.2 any claim that the use of the Trade Marks by the Licensee infringes the rights of any third party in any part of the Territory ("**Third Party Claim**") which comes to the Licensee's attention. The Licensee shall make no comment or admission to any third party in respect of such claim without the prior written approval of the BBC such approval not to be unreasonably withheld, and shall provide such cooperation or assistance in defence of any such claim as the BBC shall reasonably require at the BBC's sole cost;
- 8.2 If the BBC at any time reasonably considers that a Third Party Claim is well founded or that there is an unacceptable risk of a Third Party Claim, the BBC may inform the Licensee in writing specifying the Trade Mark in question and the applicable part of the Territory, whereupon the Licensee shall forthwith cease to use that Trade Mark in the Territory or the part of the Territory specified and the BBC shall have no liability to the Licensee as a result.

9 Warranties, Indemnity and Insurance

- 9.1 Each party represents, undertakes and warrants that it has the full authority, power and capacity to enter into and fully perform this Licence, but the BBC gives no other warranty including, without limitation, any warranty that there are no conflicting third party rights in any part of the Territory.
- 9.2 The Licensee shall indemnify the BBC (which expression shall in this clause 9.2 include its officers, servants, agents, assignees and any company within the BBC Group) against all

liabilities, loss, damages, costs and expenses including reasonable legal costs and attorneys' fees, that the BBC may directly incur as a result of the breach of this Licence by the Licensee.

- 9.3 The liability and insurance provisions in the Main Agreement shall apply to this Licence mutatis mutandis. The value of any claim made under this Licence for which the Licensee is held liable shall be deducted from any applicable cap on the Licensee's liability set out in the Main Agreement.

10 Address for Notices

- 10.1 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 given below (until one party gives written notice to the other indicating otherwise) and shall be effective notwithstanding any change of address not so notified:

The BBC: The British Broadcasting Corporation
White City Room 2251
201 Wood Lane
London
W12 7TS

Fax: 020 8008 1939

Attention: Head of BBC Legal (Litigation)

The Licensee: Capita Business Services Limited
71 Victoria Street
Westminster
London
SW1H 0XA

Fax: 0207 799 1526

Attention: Head of Legal and Commercial Group

- 10.2 Proof of dispatch, posting or transmission shall constitute proof of receipt two days after dispatch (if by registered post or courier), seven days after posting (if by airmail) or the next business day following the date on which the facsimile was transmitted by the sender (if by fax).
- 10.3 Copies of all notices to the BBC must be sent to the address specified in the Special Definitions

11 Assignment etc

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

11.2 Without prejudice to the generality of clause 11.1 above:

- 11.2.1 if the Licensee properly and with the consent of the member of the BBC Group which is signatory to the Main Agreement sub-licenses any of its rights under the Main Agreement to a third party (the "**Sub-Licensee**") and the Sub-Licensee wishes to use the Trade Marks, the Licensee shall procure that the Sub-Licensee shall prior to using the Trade Marks enter into a Trade Mark Licence directly with the BBC in a substantially similar form to this Licence;
- 11.2.2 the Licensee may permit any company within its Group ("**the Company**") to exercise the Licensee's rights under this Licence on its behalf. The Licensee undertakes to supply full details to the BBC of any such permission, to notify the Company of the existence of this Licence, and to ensure the Company's compliance with it. The Licensee shall remain liable under this Licence for any acts of the Company;
- 11.2.3 third parties ("**Manufacturers**") may be subcontracted to manufacture the Licensed Product for the Licensee. Manufacturers shall not distribute and/or sell the Licensed Product to anyone other than the BBC or the Licensee, or deal in any other way with the Licensed Product either within or outside the Territory. The Licensee shall remain liable under this Licence for any acts of Manufacturers.

12 General

- 12.1 Nothing in this Licence shall constitute or be deemed to constitute a partnership or joint venture 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.
- 12.2 Each party shall keep any confidential information relating to the business affairs of the other party and its Group secure and protected against theft, damage, loss or unauthorised access. Neither party will disclose any such information to any third party other than employees, agents or professional advisers of the disclosing party or its Group who need to know such information for the purposes of acting under and pursuant to this Licence and/or the Main Agreement and who are made aware of and have agreed to comply with this clause. The obligations of this clause shall not apply to any disclosure of information which is required by law or by a competent regulatory authority, and shall cease to apply to any information which has come into the public domain through no fault of the recipient.
- 12.3 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.
- 12.4 No waiver by either party of a breach or a default hereunder shall be effective unless in writing and signed by both parties and no such waiver shall 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.

- 12.5 To the fullest extent permitted by law all provisions of this Licence shall be severable and no provision shall be affected by the invalidity or unenforceability of any other provision of this Licence.
- 12.6 This Licence represents the entire understanding between the parties and supersedes all prior agreements, whether oral or written, between the parties in relation to its subject matter. Neither party has entered into this Licence on the basis of, or has relied on, any statement or representation (whether negligent or innocent) except those expressly contained in this Licence. This sub-clause does not apply to any statement or representation made fraudulently.
- 12.7 No person who is not a party to this Licence has or shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Licence. Notwithstanding clause 9.2 of this Agreement, the parties shall not require the consent of any other person in order to vary or rescind this Licence by agreement.
- 12.8 Each individual executing this Licence on behalf of a party hereto represents and warrants that he has been fully empowered by such party to execute this Licence and that all necessary action to authorise execution of this Licence by him has been taken by such party.
- 12.9 Save for clause 9.3 of this Agreement, which shall prevail over any inconsistent term in the Main Agreement, the provisions of this Licence shall prevail if there is any conflict between them and those in the Main Agreement.
- 12.10 The clause headings are for identification purposes only and shall not affect the meaning of the clauses themselves.

13 Law and Jurisdiction

This Licence shall be interpreted in accordance with the laws of England and Wales and any dispute or other matter arising hereunder shall be subject (and the parties hereby submit) to the exclusive jurisdiction of the English Courts.