

## **Green Dot Trade Mark Agreement Terms And Conditions**

**IT IS HEREBY AGREED as follows:-**

### **1. Grant of Rights**

- 1.1. In consideration of the Licensee's membership of the Licensor's approved compliance scheme, as set out more particularly at Recital C above, the Licensor grants to the Licensee, on the terms set out in this Agreement, a non-exclusive non-transferable licence to use the Trade Mark only in the Territory only on or in relation to Primary and Secondary Packaging. The licence is personal to the Licensee and the grant does not include any right to grant sub-licences. Primary and Secondary Packaging has for the purpose of this Agreement the meanings ascribed to those terms in Section 4(3) of the Waste Management (Packaging) Regulations 2007 (SI 798 of 2007), as amended from time to time (hereafter "the Regulations"). For ease of reference, these definitions are set out in full in the Third Schedule hereto.
- 1.2. The Licensee shall only use the Trade Mark on its Primary and Secondary Packaging imported into, manufactured or supplied by it in the Territory.
- 1.3. The Trade Mark shall only appear on the Licensee's Primary and Secondary Packaging in the form stipulated in the Second Schedule hereto.

### **2. Use of the Trade Mark**

- 2.1 All use of the Trade Mark by the Licensee shall be for the benefit of the Licensor. All goodwill accruing to the Licensee from its use of the Trade Mark shall accrue to and be held in trust by the Licensee for the Licensor and shall be assigned to it at its request at any time.
- 2.2 The use of the Trade Mark by the Licensee shall be in compliance with the Second Schedule hereto and at all times be in keeping with and seek to maintain its distinctiveness and reputation as determined by the Licensor.
- 2.3 The Licensee shall not use any mark or name confusingly similar to the Trade Mark in the Territory and shall not use the Trade Mark in relation to any goods or services other than the Primary and Secondary Packaging supplied by the Licensee in the Territory.
- 2.4 The Licensee shall not use the Trade Mark as part of any corporate business or trading name or style of the Licensee, without the consent in writing of the Licensor.
- 2.5 If the Licensor so requests, the Licensee shall supply samples of packaging to the Licensor for inspection and to ensure that use of the Trade Mark complies in all respects with this Agreement. The Licensor may require the suspension or discontinuance of the Licensee's use of the Trade Mark until it is satisfied that any deficiency in compliance has been corrected by the Licensee.

2.6 This Agreement shall constitute the written consent of the Licensor for the Licensee to use the Trade Mark as provided for in Article 19 of the 2003 (SI 61 of 2003) Regulations (as amended from time to time) subject to termination of such consent on the termination of this Agreement as provided for herein.

3. **Ownership of the Trade Mark**

3.1 The Licensor warrants that it is entitled to grant this sub-licence of the Trade Mark to the Licensee but gives no warranty as to the validity or enforceability of the Trade Mark.

3.2 The Licensee shall not make any representation or do any act which may be taken to indicate that it has any right, title or interest in or to the ownership or use of the Trade Mark except under the terms of this agreement, and acknowledges that nothing contained in this agreement shall give the Licensee any right, title or interest in or to the Trade Mark save as granted hereby and shall make no challenge to the validity of the Trade Mark.

3.3 The Licensee shall desist from any act which might in any way invalidate the Trade Mark and shall give the Licensor any assistance requested in maintaining the rights in the Trade Mark, registered or otherwise.

4. **Infringements**

4.1 The Licensee shall immediately notify the Licensor of any infringement or other misuse or attack on the Trade Mark.

4.2 The Licensor shall have sole control over all proceedings relating to the Trade Mark. The Licensee will at the reasonable request of the Licensor give full co-operation to the Licensor in any action, claim or proceedings brought or threatened in respect of the Trade Mark and the Licensor shall meet any reasonable expenses incurred by the Licensee to third parties in giving such assistance.

5. **Duration and Termination**

5.1 **Term of Agreement:** This Agreement shall be deemed to come into force on date signed and, subject to the provisions of clause 5.2 below will continue in force for the calendar year unless or until terminated by either party giving to the other not less than one month's written notice expiring at or at any time after the end of that period.

## 5.2 **Rights to Terminate:**

5.2.1 The Licensor will be entitled to terminate this Agreement with immediate effect and without liability by notice in writing to the Licensee in the event that:-

- (i) the Licensor's licence to use and/or to the sub-licence the Trade Mark is terminated.
- (ii) the Licensee ceases to be certified by the Licensor under the terms of the Regulations

5.2.2 Either party will be entitled forthwith to terminate this Agreement by written notice to the other if:

- (1) that other party commits any breach of any of the provisions of this Agreement and, in the case of a breach capable of remedy, fails to remedy the same within 30 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied;
- (2) an encumbrancer takes possession, a receiver is appointed over any of the property or assets of that other party or an examiner is appointed in respect of it;
- (3) that other party makes any voluntary arrangement with its creditors or becomes subject to an administration order;
- (4) that other party goes into liquidation (except for the purposes of amalgamation or reconstruction and in such manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on that other party under this Agreement;
- (5) that other party ceases, or threatens to cease to carry on business.

## 6. **Consequences of Termination**

Upon the termination of this Agreement for any reason:-

6.1 the Licensee shall cease to make any use of the Trade Mark save that if the Licensee has a stock of Packaging existing or in the course of manufacture bearing the Trade Mark at the date of termination of this Agreement the Licensee may, with the Licensor's specific permission, use such stock of Packaging on the terms hereof or such other terms as may be agreed.

6.2 Subject as otherwise provided herein and to any rights or obligations which have accrued prior to termination, neither party will have any further obligation to the other under this Agreement.

7. **Force Majeure**

7.1 Neither party shall be deemed to be in breach of this Agreement where default in performance is due to Force Majeure. If the Force Majeure continues for a period in excess of six months, the parties shall endeavour to agree fair and reasonable alternative arrangements.

For the purpose of this clause, Force Majeure shall mean circumstances arising which are not caused by and which are beyond the control of the parties and which prevent the performance of the contract.

8. **Variation**

8.1 This Agreement may not be released, discharged, supplemented, amended, varied or modified in any manner except by an instrument in writing signed by a duly authorised officer or representative of each of the parties hereto.

9. **Whole Agreement**

9.1 This Agreement represents the entire Agreement between the parties and supercedes all earlier Agreements between the parties relating to the Trade Mark.

10. **Governing Law**

10.1 This Agreement and all relationships created hereby will in all respects be governed by and construed in accordance with the laws of the Republic of Ireland.

11. **Jurisdiction**

11.1 It is irrevocably agreed that the Irish courts are to have jurisdiction to settle any disputes which may arise out of or in connection with this Agreement or its performance and accordingly that any suit, action or proceedings so arising may be brought in such courts.

## FIRST SCHEDULE

### Part 1: Registered Trade Marks

<u>The Mark</u>	<u>No</u>	<u>Class</u>	<u>Date of Reg</u>	<u>Date of Next Renewal</u>	<u>Goods/Services</u>
Irish Trade Mark Green Dot Device	207627	Classes 35, 39, 40 and 42	1st July, 1996		Class 35 Advertising and business management included in Class 35  Class 39 Transportation and storage of primary packaging  Class 40 Material treatment by chemical, physical and biological processes; waste disposal and recycling of packaging materials included in Class 40  Class 42 Construction software for data processing included in Class 42
Community Collective Mark Green Dot Device	298273	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 39, 40, 42	12th June, 1996		As per certificate
Community Trade Mark Green Dot Device	297960	35, 39, 40, 42	12th June, 1996		As per certificate

<u>The Mark</u>	<u>No</u>	<u>Class</u>	<u>Date of Registration</u>	<u>Goods/Services</u>
Irish Trade Mark Green Dot device	153952	12	29 <sup>th</sup> May 1991	As per certificate
Irish Trade Mark Der Grune Punkt and Green Dot device	153953	12	4 <sup>th</sup> June 1991	As per certificate

Part 2: Trade Mark  
Applications

<u>The Mark</u>	<u>No.</u>	<u>Class</u>	<u>Date of Application</u>	<u>Goods/Services</u>
Irish collective mark "Green Dot" device	1996/4406	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 39, 40 and 42	1996	As per application

Part 3 – Unregistered rights in Green Dot mark

<u>The Mark</u> The Green Dot words and device	All unregistered rights including goodwill subsisting in the Mark
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## SECOND SCHEDULE

# THE GREEN DOT

### **Presentation**

The Green Dot consists of an enclosed circle containing two interlocking arrows following a vertical axis. The contrasting arrow with respect to the background is always on the top and pointing to the right. The Green Dot must stand vertical to the text on the packaging, which is usually upright as shown, although some packs may not have a standard base and, therefore, the orientation of the text on which the Dot is marked would dictate the presentation of the Dot.

### **Colours:**

*The arrow pointing left and on the bottom is the light green Pantone 366C*

*The arrow pointing right and on the top is the dark green Pantone 343C*

*The text "The Green Dot" (if used) is in Pantone 343C*

However, it is accepted that for many packs, the introduction of a completely new colour is not always practical or feasible. Any two colours can be used and The Green Dot can even be printed in a single colour on a contrasting background. For technical details consult the Repak Website at [www.Repak.ie](http://www.Repak.ie) or telephone Repak at (01) 467 0190.

### **Dimensions:**

In the interests of optimum visibility, it is suggested that The Green Dot symbol should have a minimum diameter of 10mm. For smaller packaging the absolute minimum size tolerated is 6mm. In diameter.



### **THIRD SCHEDULE**

“Packaging” constitutes packaging within the meaning of section 5 of the Act which is:-

- (a) sales or primary packaging, that is to say packaging conceived so as to constitute a sales unit to the final user or consumer at the point of purchase, or
- (b) grouped or secondary packaging, that is to say packaging conceived so as to constitute at the point of purchase a grouping of a certain number of sales units (whether the latter are sold as such to the final user or consumer or whether the packaging serves only as to a means to replenish shelves at the point of sale), and which can be removed from a product without affecting the product’s characteristics.