

Terms and Conditions for the Use of the Green Dot

1. Definitions and Interpretation:

"Agreement" means these Terms and Conditions for use of the Trade Marks as updated from time to time.

"Authorised Packaging" means the packaging on which the User or prospective User declares to the Licensor, during the Subscription Procedure, that it uses or will use the Trade Marks or which the Trade Marks will appear. This declaration shall be in writing as updated thereafter from time to time by written notice given by the User directly to the Licensor to info@valpak.co.uk or such other notification address as may be notified by the Licensor to the User from time to time.

"Calendar Year" means 1 January until 31 December in any given year.

"Code of Practice" means the Valpak Green Dot Code of Practice as set out on the Website, which may be updated from time to time.

"Personal Data" and "Processing" shall have the respective meanings set out in Data Protection Law.

"Data Protection Law" means the General Data Protection Regulation 2016 (Regulation (EU) 2016/679) ("GDPR"), the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003), together with the equivalent legislation of any other applicable jurisdiction and all other applicable law, regulations, guidance and codes of conduct or practice in any relevant jurisdiction relating to the processing of personal data, cyber security and/or privacy including the guidance and codes of practice issued by the UK Information Commissioner's Office ("ICO"), the Article 29 Working Party, the European Data Protection Board or any relevant supervisory authority from time to time.

"Green Dot Standards of Use" means the requirements and stipulations of the use of the Trade Marks on Authorised Packaging, as set out on the Website, which may be updated from time to time.

"Indirect and Consequential Losses" means collectively those losses recoverable under the second limb of the rule in *Hadley v Baxendale (1854) 9Ex341*.

"Licensor" means Valpak Limited (registered number 7688691) whose registered office is at Stratford Business Park, Banbury Road, Stratford-upon-Avon, Warwickshire, CV37 7GW.

"Subscription Procedure" means the process that a prospective User must undertake in order to acquire the rights under this Agreement which can be located on the Website

"Subscription Procedure" means the process that a prospective User must undertake with the Licensor in order to acquire the rights under this Agreement.

"Term" the term of this Agreement as agreed between the parties upon the User's completion of the Subscription Procedure.

"Territory" means England, Wales, Scotland and Northern Ireland.

"Trade Marks" means the UK and European registered trade marks set out at Schedule 1 and any registrations of marks notified to the User from time to time.

“User” means a person, organisation, firm or company which has completed the Subscription Procedure in order to obtain the rights set out in this Agreement.

“Website” means <http://www.valpak.co.uk>

“Valpak” means Valpak Limited (registered number **07688691**), whose registered office is at Unit 4 Stratford Business Park, Banbury Road, Stratford-Upon-Avon, Warwickshire, CV37 7GW.

- 1) Words importing the singular shall include the plural, and vice versa; words denoting persons shall include corporate bodies and unincorporated associations of persons and vice versa.
- 2) Headings are for convenience only and do not affect the interpretation or construction of this Agreement.
- 3) Any reference to law is a reference to that law as amended or re-enacted.
- 4) Unless the context otherwise requires, references to this Agreement or any document referred to in it shall include reference to this Agreement or such document as amended, extended or replaced from time to time.

2. PARTIES

(a) This Agreement is made between the Licensor and the User, upon the completion of the Subscription Procedure.

(b) Before entering into this Agreement, the User must complete the Subscription Procedure. The Subscription Procedure is completed once the User has provided all the data requested to the Licensor and confirmed that they will abide by the Code of Practice, the Green Dot Standards of Use and this Agreement. Data will include the following information, provided in writing to the Licensor: (a) the brands which will use the Green Dot Trade Marks; (b) a description of the packaging to which the Green Dot Trade Mark will be applied to; (c) confirmation the User will abide by the Code of Practice, Green Dot Standards of Use and the terms of this Agreement.

(c) Users may print and keep a copy of this Agreement.

3. GRANT OF RIGHTS

(a) In consideration of the charges paid by the User (if applicable) as referred to at clause 4 below, the Licensor grants to the User a non-exclusive, non-transferable, licence to use the Trade Marks on or in relation to the Authorised Packaging placed on the market in the Territory, including in connection with the manufacture, promotion, distribution and sale of Authorised Packaging.

(b) The User acknowledges that use of the Trade Marks is strictly limited to the Territory. By entering into this Agreement with the Licensor or paying a charge to the Licensor, this does not imply that any other licensing organisation outside the Territory gives consent to use the Trade Marks in the jurisdiction concerned. The User shall make any third parties it enters into any contractual arrangement with aware of this restriction when selling Authorised Packaging which displays or uses the Trade Marks.

(c) The User acknowledges and agrees that the exercise of the licence granted to the User under this Agreement is subject to all applicable laws, enactments, regulations and other similar instruments in the Territory, and the User understands and agrees that it shall at all times be solely liable and responsible for such due observance and performance.

4. PAYMENT OF ANNUAL CHARGES

(a) In consideration of the grant of the licence pursuant to clause 3a) above, the User shall pay to the Licensor [Insert charge] (to be amended by the Licensor)] in respect of each year commencing on the Commencement Date. The Licensor reserves the right to increase the charges in respect of this Agreement with regard to future years as it may notify the User by advance written notice and shall provide the User with such advance notice of such Charges as is reasonably practicable.

(b) Payment of any charges under this Agreement will become due within [insert days (to be amended by the Licensor)] of the date of the Licensor's invoice.

5. USE OF TRADEMARKS

(a) The User shall comply strictly with the terms of this Agreement regarding the form and manner of the application of the Trade Marks, including the directions contained in the Green Dot Standards of Use.

(b) The User shall not use in its business any other trade mark confusingly similar to the Trade Marks and shall not use the Trade Marks or any mark confusingly similar to the Trade Marks as, or as part of, its corporate or trading name.

(c) The User shall not do, or omit to do, or permit to be done, any act that will or may weaken, damage or be detrimental to the Trade Marks or the reputation or goodwill associated with the Trade Marks, the Licensor, or that may invalidate or jeopardise any registration of the Trade Marks.

(d) The User shall not apply for, or obtain, registration of any trade or service mark in any country which consists of, or comprises, or is confusingly similar to, the Trade Marks.

(e) The User shall not use the Trade Marks in a manner which is not expressly authorised under this Agreement.

(f) The User shall not, nor directly or indirectly assist any other person to:

- (i) use the Trade Marks except as permitted under this Agreement; or
- (ii) do or omit to do anything to diminish the rights of the Licensor in the Trade Marks or impair any registration of the Trade Marks.

(g) Any goodwill derived from use of the Trade Marks shall accrue to the Licensor, Valpak or Valpak's licensor. The Licensor (or Valpak or Valpak's licensor) may, at any time, call for a confirmatory assignment of that goodwill and the User shall immediately execute such documentation required.

(h) Nothing in the Agreement gives the User the right to be the sole or exclusive sub - licensee of the Trade Marks or restrict the right of the Licensor or Valpak or the proprietor of the Trade Marks to grant rights to use the Trade Marks to third parties.

6. ENFORCEMENT

(a) The User shall promptly inform the Licensor if any of the following matters come to its attention: (i) any actual, suspected or threatened infringement of the Trade Marks (ii) any actual or threatened claim that the Trade Marks are invalid (iii) any actual or threatened opposition to the

Trade Marks (iv) any claim made or threatened that use of the Trade Marks infringes the rights of any third party (v) any person applies for, or is granted, a registered trade mark by reason of which that person may be, or has been, granted rights which conflict with any of the rights granted to the User under this Agreement (vi) any other form of attack, charge or claim to which the Trade Marks may be subject.

(b) Should the Licensor take action to prevent such infringement or defend proceedings for revocation, the User shall, at the Licensor's request and expense, render all reasonable assistance in connection therewith. The Licensor shall be entitled to retain any damages and costs recovered by it in any action.

7. WARRANTIES AND INDEMNITIES

(a) Nothing in the Agreement or in the discussions or course of conduct of the parties preceding or during the term of the Agreement shall be construed as a representation or warranty of any nature and, in so far as the Licensor may lawfully do so, the Licensor hereby expressly excludes all other representations, warranties and conditions, express or implied, whether statutory or otherwise, of any nature whatsoever. In particular, nothing in the Agreement shall be construed as a representation or warranty that any of the Trade Marks are valid or are not infringing the rights of any third parties.

(b) The Licensor shall not be liable to the User for any costs, expenses, loss or damage (whether direct, indirect or consequential, and whether economic or other) arising from the User's exercise of the rights granted to it under this Agreement.

(c) Without prejudice to any rights or remedies implied in the Licensor's favour by statute or common law or under any provision of this Agreement, the User shall indemnify the Licensor and keep the Licensor indemnified against any and all actions, proceedings, claims, demands, costs, liabilities, losses, fees, claims under contract and expenses (including without limitation any direct losses, Indirect and Consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable legal and professional fees) arising out of or relating to:

(i) the User's exercise of its rights granted under this Agreement, including any claim made against the Licensor for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection therewith;

(ii) any Authorised Packaging or the products contained, manufactured or sold by or on behalf of the User or the unauthorised use of the Trade Marks, including without limitation, any product liability claim;

(iii) the User's negligent or non-performance of, or failure to comply with this Agreement relating to the Authorised Packaging manufactured, supplied or put into use by the User;

(iv) all other acts, breaches, inactions or omissions by the User and/or its employees, agents or subcontractors in connection with the Agreement;

(v) the enforcement of this Agreement; and

(vi) any claim made against the Licensor by a third party for death, personal injury or damage to property arising out of or in connection with defective Authorised Packaging, to the extent that the defect in the Authorised Packaging is attributable to the acts or omissions of the User, its employees, agents, sub-licensees or subcontractors.

8. ADDITIONAL USER OBLIGATIONS

- (a) The User shall:
- (i) ensure that the Authorised Packaging is safe for the use for which they were intended;
 - (ii) obtain at its own expense all licences, permits and consents necessary for the provision of the Authorised Packaging in the Territory;
 - (iii) perform its obligations in connection with the provision of the Authorised Packaging with all due skill, care and diligence including good industry practice;
 - (iv) comply with all regulations and practices in force or use in the Territory to safeguard the Licensor's rights in the Trade Marks.

9. TERM OF AGREEMENT

The Agreement shall commence on the Commencement Date and continue in force until the earlier of:

- (a) the expiry of the Term of the Agreement; or
- (b) termination of this Agreement in accordance with clause 10 below.

10. TERMINATION

- (a) Either party may terminate the Agreement forthwith by notice in writing to the other party upon the happening of any of the following events:
- (i) if the other party commits a breach of any of the obligations on its part to be performed or observed hereunder and in the case of a breach capable of rectification fails to rectify the same within 30 days after notice is given to it identifying the breach and requiring such rectification; or
 - (ii) if the other party is insolvent or if a liquidator, receiver, administrator or administrative receiver is appointed in respect of the whole or any part of its assets or if any order is made or a resolution passed for winding up (other than a resolution for a members voluntary winding up for the purpose of amalgamation or reconstruction, or if equivalent action is taken or occurs in any other jurisdiction).
- (b) The Licensor may terminate the Agreement forthwith by notice in writing to the User if the User challenges the validity of any of the Trade Marks.
- (c) Either party may terminate this Agreement upon 30 days' written notice.
- (d) The Agreement shall terminate automatically without notice if the Licensor ceases to have the right to grant the rights set out in this Agreement.
- (e) The Agreement shall terminate automatically without notice if the User ceases to be a member of the Licensor's compliance scheme

11. CONSEQUENCES OF TERMINATION

- (a) On termination of this Agreement, the User shall immediately cease to have any right to use the Trade Marks, and will thereafter refrain from using the Trade Marks.
- (b) All outstanding sums payable by the User to the Licensor shall immediately become due and payable.

(c) Within 30 days after the date of termination the User shall promptly destroy or, if the Licensor shall so elect, deliver to the Licensor or any other person designated by the Licensor, at the User's expense, all Authorised Packaging that uses or displays any of the Trade Marks.

12. ASSIGNMENT

The User shall not assign, sub-licence, transfer, mortgage, charge or part with any of its rights, duties or obligations under the Agreement.

13. CONFIDENTIALITY

- (a) Each party undertakes that it shall not at any time during this Agreement, and for a period of three years after expiry or termination of this Agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, nor any of the terms of this agreement, except as permitted by clause 14(b).
- (b) Each party may disclose the other party's confidential information:
- (i) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause; and
 - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) No party shall use any other party's confidential information for any purpose other than to exercise its rights or perform its obligations under or in connection with this Agreement.

14. DATA PROTECTION

- (a) Each party warrants that:
- (i) it shall not undertake any Processing of Personal Data pursuant to this Agreement unless or until it is governed by a contract or other legal act that is binding on the parties that complies with Data Protection Law;
 - (ii) it shall immediately cease any Processing of Personal Data pursuant to this Agreement which is not governed by such a contract or other legal act or which is otherwise not compliant with Data Protection Law; and
 - (iii) it has complied and shall continue to comply with Data Protection Law.

15. GENERAL CONDITIONS

- (a) The Agreement contains the whole agreement and understanding between the parties relating to the Trade Marks and the Authorised Packaging and supersedes all previous agreements promises, assurances, warranties, representations and understandings between the parties.
- (b) The termination of the Agreement, howsoever occasioned, shall be without prejudice to any obligations or rights on the part of either party which have accrued prior to such termination and shall not affect or prejudice any provision of the Agreement which is expressly or by implication provided to come into effect on, or continue in effect after, such termination.

(c) The failure of the Licensor at any time to enforce any of the terms provisions or conditions of the Agreement or to exercise any right hereunder shall not constitute a waiver of the same or affect that party's right thereafter to enforce the same.

(d) If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

(e) The Agreement is not intended to benefit anyone other than the parties to it and, in particular, no term of the Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party.

(f) Each party shall and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute such documents and perform such acts as may reasonably be required for the purpose of giving full effect to this Agreement.

(g) Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

16. NOTICES

Any notice required to be given under the Agreement shall be in writing and sent by first class post or by email to the address as notified by the party and shall be deemed to have been received two business days after posting if sent by first class and at 9:00am on the next business day after the email is transmitted if sent by email.

17. LIMITATION OF LIABILITY

(a) Subject to clause 17(b), the Licensor limits its liability under the Agreement, whether such liability arises in contract, tort (including without limitation negligence) or otherwise, as follows:

(i) its maximum liability for all claims under the Agreement in each Calendar Year shall be limited to the higher of i. £500 or ii. the total amount paid to the Licensor pursuant to clause 4 in the Calendar Year in which the cause of action accrued; and

(ii) without prejudice to clause 17(a)(i), the Licensor shall not be liable for: i. loss of business, use, profit, anticipated profit, contracts, revenues, goodwill or anticipated savings; ii. damage to the User's reputation; iii Indirect and Consequential Losses; or iv. any claim by any third party claims even if it has or had been advised of the possibility of such loss, damage or claim.

(b) The Licensor does not exclude or limit its liability under the Agreement for fraudulent misrepresentation or death or personal injury caused by its negligence.

(c) Without prejudice to any other rights or remedies that the Licensor may have, the User acknowledges and agrees that damages alone would not be an adequate remedy for any breach of the terms of this Agreement by the User. Accordingly, the Licensor shall be entitled to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of the terms of this Agreement.

18. VARIATION OF TERMS










The Licensor may, at its discretion, make reasonable changes to this Agreement upon notification to the User in accordance with clause 16. For these purposes any such changes shall be deemed to take effect, 30 days after the date of such notice.

19. GOVERNING LAW

The Agreement is governed by and shall be construed in accordance with English law and the parties agree to submit to the exclusive jurisdiction of the English courts in relation to any claim, matter, difference or dispute arising out of or in connection with this Agreement.

Schedule 1

Trade Mark	Number	Class	Country
	1482185	16 and 21	United Kingdom
	1482187	16 and 21	United Kingdom
	1466826	35, 36, 39, 40 and 42	United Kingdom
	2039593	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 and 34	United Kingdom
	1466353	35, 36, 39, 40 and 42	United Kingdom
	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 and 42	Community Trade Mark
	297960	35, 39, 40 and 42	Community Trade Mark