

On-Pack Recycling Label Scheme Terms and Conditions.

These terms and conditions must be adhered to by any party wishing to make use of the On-pack recycling labelling scheme. By checking the box below you indicate your acceptance of the terms and conditions.

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Any use of the Recycle icon, mark or derivatives on packaging by parties not signed up to these terms and conditions shall be deemed as unauthorised and action shall be taken by the owners to stop such use.

All authorised licensees are required to pay the relevant fee for monitoring the scheme (as specified in Clause 10 of these terms and conditions).

Recitals

Whereas:

- A. The intellectual property rights in the Recycle Now Iconography and all supporting material including guidelines used in the OPRL Scheme is owned by The Waste and Resources Action Programme a private company limited by guarantee registered in England with number 4125764 and whose registered office is at The Old Academy, 21 Horse Fair, Banbury, Oxfordshire, OX16 0AH ("WRAP").
- B. WRAP has granted to OPRL Limited a licence (the "Head-Licence") to use and sub-licence use of the Recycle Now Iconography on packaging as part of the OPRL scheme.

1. Definitions

"Affiliate" means each and any subsidiary or holding company of a party and each and any subsidiary of a holding company of that party. For the purposes of this agreement "subsidiary" and "holding company" shall have the meanings given to them in s1159 Companies Act 2006.

"Annual Subscription Fee" means a fee of £700 or such other amount as may be notified to you from time to time in writing or set out on the OPRL website.

"OPRL Scheme" means the Scheme under which the use of the Recycle Now Iconography on Packaging is promoted.

"OPRL Site" means [www.onpackrecyclinglabel.org.uk].

“Packaging” shall have the meaning given in the Producer Responsibility Obligations (Packaging Waste) Regulations 1997 as amended from time to time.

“Recycle Now Iconography” means the following:

The Recycle icon

The Recycle mark containing the recycle icon and the recycle text.

The “On-pack recycling label” and any derivatives featuring the recycle icon which helps to identify how different parts of packaging can be recycled – that are made available to you by OPRL for download from the OPRL Site.

There are currently 3 main labels:

- “Widely Recycled”;
- “Check local recycling”; and
- “Not currently recycled”.

2. Grant of Licence

- 2.1 Payment of the applicable fee(s) to OPRL and acceptance of these terms and conditions entitles you and, where expressly agreed with OPRL in writing, your Affiliates to participate in the OPRL Scheme, which includes the use of the Recycle Now Iconography in accordance with the On pack recycling labelling guidelines (“the Guidelines for Use”). You shall procure that any of your Affiliates that participate in the OPRL Scheme comply with this Agreement and the Guidelines for Use.
- 2.2 OPRL reserves the right to change these terms and conditions at any time by providing you with written notice.

3. Key Obligations

- 3.1 Your Obligations
 - 3.1.1 You are responsible for paying the Annual Subscription Fee on an annual basis and reviewing, on a regular basis, the information contained on the OPRL Site. You must at all times ensure that you are working in accordance with the latest set of Guidelines for Use published by OPRL Limited from time to time and notified to participants.
- 3.2 OPRL’s Obligations
 - 3.2.1 OPRL shall use reasonable endeavours to procure that you receive the following services whilst this sub-licence remains in force:
 - (i) a six monthly report including statistics on the OPRL Scheme;
 - (ii) a point of contact for dealing with general queries and complaints relating to the OPRL Scheme;

- (iii) the provision of bespoke technical advice to you and (where expressly requested) your supply chain contacts on any new and complex packaging components and formats not obviously addressed in the Guidelines for Use; and
- (iv) the provision of design and implementation advice on use of the Guidelines for Use.

4 Application of the Recycle Now Iconography on Packaging

- 4.1 You agree to comply strictly with the tools and resources that support the OPRL Scheme, including the Guidelines for Use and any directions of OPRL Limited that are communicated to you regarding the form and manner of the application of the Recycle Now Iconography on packaging including those set out in these terms and conditions. Until such time as OPRL Limited notifies you otherwise, you may use the Recycle Now Iconography in accordance with these terms and conditions on Consumer Packaging.
- 4.2 In the event of the termination of the Head-Licence which allows OPRL to sublicense the Recycle Now Iconography for use on packaging you agree to transfer (either by assignment or novation) your sublicense, entered into prior to the point of termination, to WRAP, or other such company that may be nominated by WRAP.
- 4.3 The sub-licence granted under clause 2.1 is personal to you and you shall not assign, or transfer all or any part of your rights or obligations under this agreement save in accordance with clause 4.2.

5 Restrictions on Use of Materials

- 5.1 The Recycle Now Iconography and any derivatives and the Guidelines for Use are the property of WRAP and are protected, without limitation, pursuant to copyright and trademark laws and may not be reproduced or republished except in accordance with the terms of this agreement.
- 5.2 Subject always to these terms and conditions, material produced by OPRL Limited and/or WRAP for the OPRL Scheme may be copied or downloaded for use on own brand or branded packaging only. You are not permitted to sublicense any of the material contained in the OPRL Scheme.
- 5.3 You agree not to adapt, alter or create a derivative work from any of the material contained in the OPRL Scheme without express written permission from OPRL.
- 5.4 You agree to provide OPRL with any aggregated or other data reasonably required by OPRL in connection with the OPRL Scheme and hereby agree that any such data may be used by OPRL in order to analyse and promote the OPRL Scheme acknowledge and consent to OPRL passing any such data to WRAP, so that it can use the data for analysis of the OPRL Scheme and/or for promotional purposes and to such other parties as OPRL may require in order to enable OPRL to perform its obligations under this sub-licence and to manage its relationship with you.

- 5.5 You will not publish any information supplied by OPRL in connection with this agreement without the prior written consent of OPRL such consent not to be unreasonably withheld or delayed.
- 5.6 You undertake to maintain in confidence and not use for any purpose other than the performance of this agreement all information acquired or generated in consequence of this agreement or otherwise relating to the OPRL Scheme which comes into your possession save where such information:
- 5.3.1 is in the public domain;
 - 5.3.2 enters the public domain lawfully and through no breach of any obligation of confidentiality;
 - 5.3.3 is disclosed to you by a third party acting lawfully;
 - 5.3.4 is the subject of the express consent of OPRL for publication or disclosure; or
 - 5.3.5 is obliged to be disclosed by law.
- 5.7 You agree not to use any personal data provided to it by OPRL (if any) for any purpose or disclose it to any third party whatsoever without the prior written consent of OPRL on terms which shall have been previously approved by OPRL in writing and in accordance with the Data Protection Act 1998.

6 Indemnity

- 6.1 You agree to indemnify OPRL Limited against any costs or expenses (including the cost of any settlement) arising out of any claim, action, proceeding or demand that may be brought, made or prosecuted against OPRL Limited (including without limitation any claim made by WRAP against OPRL under the Head-Licence) by any person arising out of or as a consequences of any unlawful or negligent act or omission attributable to your organisation (including acts/omissions of your officers, employees agents and Affiliates) in any way connected with the downloading and use of the Recycle icon, the Recycle mark and/or the on-pack recycling label and/or these terms and conditions whether arising from any failure by you to comply with these terms and conditions or otherwise.
- 6.2 This indemnity extends to and includes all costs, damages and expenses reasonably incurred by OPRL Limited in defending any action, proceeding claim or demands.

7 Liability

- 7.1 OPRL Limited does not warrant that information provided by OPRL Limited will be error free or that the functions contained in the material contained in this OPRL Scheme (including information and software contained in the OPRL Site) will be error free. Subscribers to the OPRL Scheme must satisfy themselves of the accuracy of all information provided prior to relying upon it.
- 7.2 This OPRL Scheme and the information, names, images, pictures, logos and icons regarding or relating to OPRL Limited and/or WRAP, is provided "AS IS"

and on an "AS AVAILABLE" basis without any representation or endorsement made and without warranty of any kind whether express or implied, including but not limited to the implied warranties of satisfactory quality, fitness for a particular purpose, non-infringement, compatibility, security and accuracy.

- 7.3 Nothing in these terms and conditions shall operate or be construed so as to exclude or restrict the liability of any party for death or personal injury caused by negligence.
- 7.4 Under no circumstances shall OPRL Limited be liable for indirect or consequential damages, or any damages whatsoever arising from use or loss of use, data, or profits, whether in action of contract, negligence or other tortious action, arising out of or in connection with the use of the OPRL Scheme.
- 7.5 The total liability to you for all damages, losses and causes of action (save for those covered by Clause 7.3 above) shall not exceed the amount paid by you for using the OPRL Scheme in the preceding twelve months.

8 Use of OPRL Scheme and Guidance Material

- 8.1 You agree to participate in the OPRL Scheme in accordance with these terms and conditions and only for lawful purposes, and in a manner that does not infringe the rights of, or restrict or inhibit the use by any third party.
- 8.2 Should you fail to act in accordance with these terms and conditions you will be contacted by OPRL Limited and asked to rectify such failure within twenty eight days (or such other time period as may be allowed by OPRL. If the failure is not rectified within the agreed time frame, OPRL reserve the right to terminate your right of use.

9 Termination

- 9.1 This Agreement is effective until terminated by OPRL in accordance with these terms and conditions.
- 9.2 A failure to pay any fee owed (within sixty days of the due date) shall entitle OPRL to terminate this Agreement with immediate effect.
- 9.3 This Agreement may be terminated immediately with notice from OPRL Limited if, in OPRL's opinion, you have materially or persistently breached the terms of this Agreement.
- 9.4 Following termination of this Agreement you cease to be a participant in the OPRL Scheme and you must destroy all materials obtained from the OPRL Site and any copies thereof, whether made under the terms of this Agreement or otherwise. Also, within such reasonable period as OPRL may notify you in writing you must cease to place further packaging on the market place that bears the Recycle Now Iconography and any derivatives.

10 Fees

- 10.1 The Annual Subscription Fee is paid in consideration for the grant of this sub-licence and the first payment must be made before you become entitled to participate and access/ use information provided under the OPRL Scheme. The date on which this payment is received will hereafter be referred to as the First Payment Date and subsequent payments will be due and payable on each anniversary of the First Payment Date.

11. Severability

- 11.1 If any of these Terms and Conditions should be determined to be illegal, invalid or otherwise unenforceable by reason of the laws of any state or country in which these Terms and Conditions are intended to be effective, then to the extent and within the jurisdiction which that Term or Condition is illegal, invalid or unenforceable, it shall be severed and deleted from this clause and the remaining terms and conditions shall survive, remain in full force and effect and continue to be binding and enforceable.

12 Jurisdiction

- 12.1 The OPRL Scheme is controlled and operated in the United Kingdom. OPRL Limited does not make any representation that materials within the OPRL Scheme are appropriate or available for use in other locations. Those who choose to implement the Scheme from other locations do so on their own initiative and are responsible for compliance with local laws, if and to the extent local laws are applicable.
- 12.2 These Terms and Conditions shall be governed by and construed in accordance with the laws of England and Wales. Disputes arising here from shall be exclusively subject to the jurisdiction of the courts of England and Wales.

13 Miscellaneous

- 13.1 This agreement comprises the entire understanding of the parties in relation to the matters referred to in this agreement.
- 13.2 Any notice under this agreement will be in writing and served by sending the same to the other party at its registered address for the attention of the company secretary or such other address from time to time notified by that party for the purpose of notices under this agreement.
- 13.3 No term of this agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party, but this does not affect any right or remedy of a third party which exists or is available apart from under that Act.