

Trustmark Licence Agreement

This Agreement is dated as of the Commencement Date

Between:

- (1) **Retail Excellence**, having its principal place of business at 1 Barrack Street, Ennis, County Clare ("**we**", "**us**", "**our**"); and
 - (2) **The Applicant for the Trustmark** ("**you**", "**your**"),
- each a "**Party**" and together the "**Parties**" to this Agreement.

Background:

- (A) We have developed and operate the Trustmark exclusively to promote excellence in the presentation and operation of online retail websites in Ireland.
- (B) We licence retailers to use the Trustmark if they comply with the Trustmark Criteria.
- (C) You have agreed to comply with the Trustmark Criteria and we have agreed to licence you to use the Trustmark in accordance with the terms and conditions set out in this Agreement.

1 Definitions

- 1.1 In this Agreement, the following words and expressions will, unless the context otherwise requires, have the following meanings:

" Agreement "	means this Agreement including its schedules;
" Applicant for the Trustmark "	means the company which submits the Application Form;
" Application Form "	means the Application Form to be completed by you for the use of the Trustmark;
" Audit "	means an audit of you and/or the Website for compliance with the Trustmark Criteria;
" Commencement Date "	means the date the Application Form is completed and signed by you and the Licence Fee is paid;
" Confidential Information "	means any information about a Party's business disclosed by that Party under this Agreement;
" Consumer "	a visitor to your Website including any purchaser of goods or services;
" Consumer Query Process "	means the process for handling feedback from consumers as set out in Schedule 3;
" Data Protection Acts "	means the Data Protection Acts 1988 and 2003;
" Intellectual Property Rights "	means any and all intellectual property rights of any nature, whether registered, registerable or otherwise, including patents, utility models, trademarks, registered designs and domain names,

	applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights that subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites, and in each case all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these that may subsist anywhere in the world, in each case for their full term, together with any future rights and renewals or extensions;
"Licence Fee"	means the licence fee of €[] payable for the use of the Trustmark during the Term;
"Maples"	means the law firm Maples and Calder of 75 St. Stephens Green, Dublin 2;
"Term"	means the period from the Commence Date until the final day of the then current calendar year;
"Trustmark"	means the trademark set out in Schedule 2;
"Trustmark Criteria"	means the trustmark criteria set out in Schedule 1;and
"Website"	means the website from which you provide goods or services to Consumers as set out on the Application Form.

- 1.2 Clause, schedule and paragraph headings will not affect the interpretation of this Agreement.
- 1.3 Unless the context otherwise requires, words in the singular will include the plural and in the plural will include the singular.
- 1.4 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.5 A reference to a statute or statutory provision will include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.6 Any phrase introduced by the words including, includes, in particular or for example, or any similar phrase, will be construed as illustrative and will not limit the generality of the related general words.

- 1.7 References to clauses and schedules are to the clauses and schedules of this Agreement. References to paragraphs are to paragraphs of the relevant schedule.
- 1.8 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.9 If there is an inconsistency between any of the provisions in the main body of this Agreement and the Schedules, the provisions in the main body of this Agreement will prevail.

2 Qualification for the Trustmark

- 2.1 To qualify to obtain and continue to use the Trustmark you will comply with the Trustmark Criteria in respect of the Website during the Term.
- 2.2 In order to ensure continued compliance by you with the Trustmark Criteria, you agree that we will be entitled to audit the Website from time to time in accordance with clause 8.

3 Ownership and Licence

- 3.1 You acknowledge that we own all the Intellectual Property Rights in the Trustmark.
- 3.2 In consideration of the payment of the Licence Fee and your compliance with the Trustmark Criteria, we hereby grant you a licence to use the Trustmark in accordance with this Agreement.
- 3.3 We grant you a non-exclusive licence to use the Trustmark on and in relation to the Website, subject to the terms of this Agreement.
- 3.4 Any goodwill derived from your use of the Trustmark shall accrue to us. We may, at any time, call for a document confirming the assignment of that goodwill and you shall immediately execute it.
- 3.5 No rights or licences are conferred on you in respect of the Trustmark except those expressly set out in this Agreement.
- 3.6 You shall not do or fail to do any act or thing whereby the validity, enforceability or our ownership of the trade mark registrations for the Trustmark, or the reputation or goodwill associated with the Trustmark anywhere in the World, is likely to be prejudiced.

4 Licence Recordal

You shall sign such documents and give such assistance as we may reasonably request from time to time for you to be recorded as licensee against any relevant trade mark registration or pending application which includes the Trustmark, and to have any such recordal removed on termination or expiry of this licence.

5 Protection of the Trustmark

- 5.1 You shall promptly inform us of any suspected unauthorised use of the Trustmark (or any confusingly similar mark) of which you become aware, and shall provide us with such documents, information and assistance as you can in relation to any such use.
- 5.2 You undertake that, save as expressly permitted by this Agreement, you will not make any use anywhere in the world of the Trustmark or any name or mark intended or likely to be

confused or associated with it. In particular, upon termination of this licence for any reason you shall cease immediately to make any use of the Trustmark.

- 5.3 We give no warranty and make no representation in or pursuant to these Licence Terms that the use of the Trustmark on the Website will not infringe the rights of others.

6 Payment

- 6.1 You will pay the Licence Fee upon signature of this Agreement by the online method provided.
- 6.2 The Licence Fee is exclusive of VAT which will be charged in addition at the rate prescribed by law.

7 Consumer Feedback

- 7.1 You will keep a record of any Consumer complaints or feedback and make them available to us on request, including any responses to Customers and actions taken.
- 7.2 We will also keep a record of any Consumer complaints received. Subject to any obligations of confidentiality, and on an anonymised basis, we will inform you of any Consumer feedback we receive in respect of the Website. Consumer feedback to us will be dealt with in accordance with the Consumer Query Process.
- 7.3 You will take whatever action is necessary in response thereto to comply with the Trustmark Criteria. Any action we request you to take in connection with your compliance with the Trustmark Criteria shall be carried out within 7 days of such request.

8 Audits

- 8.1 We reserve the right to conduct an Audit of the Website at any time to ensure compliance with the Trustmark. Any such audit will be carried out by Maples on our behalf.
- 8.2 In the event that we receive three or more complaints from Consumer(s) in any 6 month rolling period, we may conduct a mandatory audit and you agree to co-operate with Maples and us and provide all relevant information in connection therewith.
- 8.3 In the event that an Audit demonstrates that you or the Website is not in compliance with the Trustmark Criteria, you will take whatever action is necessary in response thereto to comply with the Trustmark Criteria. Any action we request you to take in connection with your compliance with the Trustmark Criteria shall be carried out within 7 days of such request.

9 Confidentiality

- 9.1 Each Party ("**Receiving Party**") acknowledges that in the course of performing its duties under this Agreement, it may obtain Confidential Information from the other Party ("**Disclosing Party**").
- 9.2 During the Term and thereafter, the Receiving Party will treat all Confidential Information as secret, confidential, and proprietary, and will not disclose or use the same without the prior written consent of the Disclosing Party, other than to the Receiving Party's employees and contractors on a need to know basis for the purpose of performing its obligations under this Agreement, or as required by law. The Receiving Party will implement such procedures as it considers reasonably necessary to prevent the intentional or negligent

disclosure to any third party of any Confidential Information. Notwithstanding the foregoing, nothing in this Agreement will prevent the disclosure by the Receiving Party or its employees of information that:

- (a) prior to its disclosure to the Receiving Party, was of general public knowledge;
- (b) becomes, subsequent to its disclosure to the Receiving Party, a matter of general public knowledge other than as a consequence of a breach by the Receiving Party of any obligation under this Agreement;
- (c) is made public by the Disclosing Party; or
- (d) is received in good faith from a third party having the right to disclose it, who, to the Receiving Party's knowledge, did not obtain such information from the Disclosing Party and who imposes no obligation of secrecy on the Receiving Party with respect to such information.

9.3 Both Parties will comply at all times with their obligations under the Data Protection Acts.

10 Term and Termination

10.1 Except as otherwise provided in accordance with clause 10.2, or as otherwise agreed in writing by the parties, this Agreement will commence on the Commencement Date and continue for the Term.

10.2 Either Party may immediately terminate this Agreement, at any time in the event that:

- (a) the other Party commits a material breach of this Agreement which is not capable of remedy;
- (b) the other Party commits a material breach of this Agreement and (if such breach is capable of remedy) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
- (c) the other Party ceases to do business, becomes unable to pay its debts as they fall due within the meaning of section 570 of the Companies Act 2014, becomes or is deemed insolvent, has a receiver, manager, examiner, or similar officer appointed in respect of the whole or any part of its assets or business, makes any composition or arrangement with its creditors, takes or suffers any similar action in consequence of debt, or an order or resolution is made for its dissolution or liquidation (other than for the purpose of solvent amalgamation or reconstruction), enters into liquidation (whether compulsory or voluntary), or suffers or undergoes any analogous process to the above in any jurisdiction.

10.3 For the avoidance of doubt any failure by you to comply with clause 7.3 or clause 8.3, will be deemed to be a material breach of this Agreement.

10.4 The following clauses shall survive ant termination or expiry of this Agreement 1, 3, 4, 5, 9, 10.4, 11, 13, and 17.

11 Limitation of Liability

11.1 You shall indemnify us against all liabilities, costs, expenses, damages and losses (including any direct, indirect or 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 professional costs and expenses) suffered or incurred by us arising out of or in connection with your performance of this Agreement.

11.2 Nothing in this Agreement will limit our liability for:

- (a) death or personal injury resulting from our negligence; or
- (b) fraud.

11.3 Subject to clause 11.2 we will not be liable in contract, tort (including negligence) or for breach of statutory duty or in any other way for:

- (a) any economic losses (including loss of revenues, profits, contracts, business or anticipated savings);
- (b) any loss of goodwill or reputation; or
- (c) any special or indirect or consequential losses

In any case, whether or not such losses were within the contemplation of the Parties at the date of this Agreement, or were suffered or incurred by any party arising out of or in connection with this Agreement.

11.4 Subject to clause 11.2, our total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement will be limited to an amount equal to the Licence Fee.

12 Force Majeure

12.1 Neither Party ("**Delayed Party**") will have any liability to the other Party ("**Affected Party**") under this Agreement if it is prevented from, or delayed in, performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including strikes, lock-outs or other industrial disputes (excluding any industrial disputes involving its own workforce), act of God, war, riot, terrorism civil commotion, compliance with any law or regulation, fire, flood or storm (each a Force Majeure Event), provided that:

- (a) the Affected Party is notified of such an event and its expected duration; and
- (b) the Delayed Party uses all reasonable endeavours to mitigate, overcome or minimise the effects of the Force Majeure Event concerned,

and that if the period of delay or non-performance continues for 30 days or more, the Affected Party may terminate this Agreement by giving 10 Business Days' written notice to the Delayed Party.

13 Notices

13.1 Any notice or other communication required to be given to a Party under or in connection with this Agreement will be in writing and will be delivered by hand or sent by pre-paid registered post or other next working day delivery service providing proof of delivery, at its principal place of business as set out above, or sent by fax to the other Party's main fax number.

- 13.2 Any notice or communication will be deemed to have been received if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address, or if sent by fax, at 9.00 am on the next Business Day after transmission, or otherwise at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.
- 13.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution. For the purposes of this clause, "writing" will not include e-mail.

14 Assignment

You will not, without our prior written consent assign, transfer, charge, subcontract, nor deal in any other manner with all or any of your rights or obligations under this Agreement.

15 General

- 15.1 Nothing in this Agreement will be construed to give either Party the power to direct or control the daily activities of the other Party, or to constitute the Parties as principal and agent, employer and employee, franchiser and franchisee, partners, joint venturers, co-owners or otherwise as participants in a joint undertaking.
- 15.2 The remedies of the Parties under this Agreement are cumulative and will not exclude any other remedies to which the Party may be lawfully entitled.
- 15.3 Each Party hereby covenants and agrees that it will execute and deliver such deeds and other documents as may be required to implement any of the provisions of this Agreement.
- 15.4 The failure of any Party to insist on strict performance of a covenant hereunder or of any obligation hereunder will not be a waiver of such Party's right to demand strict compliance therewith in the future.
- 15.5 This Agreement may be executed in multiple copies, each of which will for all purposes constitute one Agreement, binding on the Parties, and each Party hereby covenants and agrees to execute all duplicates or replacement counterparts of this Agreement as may be required.
- 15.6 In the event any provision, clause, sentence, phrase, or word hereof, or the application thereof in any circumstances, is held to be invalid or unenforceable, such invalidity or unenforceability will not affect the validity or enforceability of the remainder hereof, or of the application of any such provision, sentence, clause, phrase, or word in any other circumstances.
- 15.7 Each party will bear its own legal, financial and advisory fees and expenses in connection with the execution and operation of this Agreement.

16 Entire Agreement

- 16.1 This Agreement constitutes the entire agreement between the Parties and supersedes all previous discussions, correspondence, negotiations, arrangements, understandings and agreements between them relating to its subject matter.
- 16.2 Each Party acknowledges that in entering into this Agreement it does not rely on, and will have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in this Agreement.

16.3 Nothing in this clause will limit or exclude any liability for fraud.

16.4 No alteration to or variation of this Agreement will take effect unless and until the same is in writing and signed on behalf of each of the Parties by a duly authorised representative.

17 Law and Jurisdiction

17.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) will be governed by and construed in accordance with the laws of Ireland.

17.2 Each Party irrevocably agrees that the courts of Ireland will have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

This Agreement has been entered into on the date stated at the beginning of it.

Schedule 1

The Trustmark Criteria

1 Legal Notices

- 1.1 Clearly visible, directly accessible and continuously available regulatory information (Company Identification) must be able to be opened (e.g. a button named "Legal Information" or comparable or a text window).
- 1.2 The Website and communications must contain the following information:
- (a) the name of the company, in case of legal entities the legal form;
 - (b) the address of the place in which the company has its registered offices (if applicable, a different business address to which consumers can address any complaints they may have);
 - (c) email address and phone number, if applicable, fax number;
 - (d) the VAT number, if issued.

2 Communications

All communications from consumers must be responded to by you within 7 days.

3 Right to Cancel

- 3.1 The information on the Right to Cancel must be able to be opened easily (e.g. via a button named "Right to Cancel" or similar or a text window).
- 3.2 The cancellation policy (policies) and the specimen cancellation form must be provided to consumers in good time before they commit to a contract, in a clear and understandable way adapted to the means of telecommunication used.
- 3.3 The cancellation policy must inform consumers about the Right to Cancel, and in particular provide details in respect of:
- (a) the length of the cancellation period;
 - (b) that they do not need a reason to exercise the Right to Cancel;
 - (c) the start of the cancellation period;
 - (d) the form in which they must exercise their Right to Cancel (clear explanation) with reference to the enclosed specimen cancellation form;
 - (e) the requirements of meeting the deadline for exercising the Right to Cancel;
 - (f) the name, address and, where available, fax number, telephone number and email address of the recipient of the cancellation notice;
 - (g) the conditions for returning the goods;
 - (h) the duty to bear costs and if applicable the amount of the costs for returning the goods;

- (i) any compensation to be paid for loss in value of the goods (according to any relevant statutory provisions).

3.4 Before committing to a contract, consumers must be informed about any legal reasons for exclusion or limitation of the Right to Cancel and/or the requirements for expiry of their Right to Cancel.

4 General Terms and Conditions of Business (T&Cs)

4.1 The T&Cs / customer information must be able to be opened easily (e.g. via a button named "T&Cs / Consumer Information" or comparable or a text window).

4.2 The T&Cs / customer information must be clearly structured, easy to read and in a form that can be saved and printed out.

5 Further duties to provide information for distance selling contracts

5.1 You must provide consumers with the following further information, in good time before they commit to a contract, in a clear and understandable way in the means of telecommunication used:

- (a) information on the relevant right to a guarantee for goods and if applicable the existence and conditions of a warranty;
- (b) where applicable, information about the existence and conditions for customer services.

6 Payment Terms

6.1 Consumers must be provided with the information on the Payment Terms in a clear and understandable way in good time before they commit to a contract in a way corresponding to the means of telecommunication used.

6.2 Consumers must be informed about the means of payment available to them (at the start of the ordering process).

7 Delivery terms

7.1 Consumers must be provided with the information about delivery in a clear and understandable way in good time before they commit to a contract in a way corresponding to the means of telecommunication used.

7.2 Terms and conditions of delivery and restrictions must be able to be opened easily (at the start of the ordering process at the latest) (e.g. via a link to the "Payment and Dispatch" page or a comparably named button or a text box).

7.3 The delivery date, by which the goods are to be delivered or the services provided, is to be included (e.g. on the product page).

8 Price information, freight, delivery and dispatch costs

8.1 The total price (including all price components) must be assigned to the offer in a way that is easily identified, transparent and complete, and if applicable the means of price calculation.

- 8.2 Before initiating the order process the following must be shown in the total price:
- (a) the freight, delivery and dispatch costs and all other costs for all countries to which deliveries are made (directly in the offer or indirectly via a link to the "Payment and Dispatch" page or comparable); if the amount cannot be reasonably calculated in advance, information must be provided that such additional costs can be incurred.
- 8.3 In the case of contracts without a time limit or subscription agreements the total price (total costs incurred per billing period, in the case of fixed amounts the total monthly costs too; if applicable the type of price calculation) must be given.

9 Product description, sales & distribution restrictions

- 9.1 In the case of distance selling contracts you must inform consumers in good time before they commit to a contract, in a clear and understandable way, to an extent appropriate for the means of communication, about the essential properties of the goods or services.

10 Order process

- 10.1 Consumers must be informed explicitly as to whether the placing of goods in the shopping basket constitutes a binding commitment.
- 10.2 The order overview must display the following information:
- (a) the essential properties of the goods or services to an extent appropriate for the means of communication and for the goods and services;
 - (b) the total price of the goods or services (if applicable the type of price calculation) including all taxes and charges;
 - (c) additionally incurred freight, delivery and dispatch costs and all other costs (if these cannot be reasonably calculated in advance, then consumers must be informed that they could be incurred).

11 Data Protection

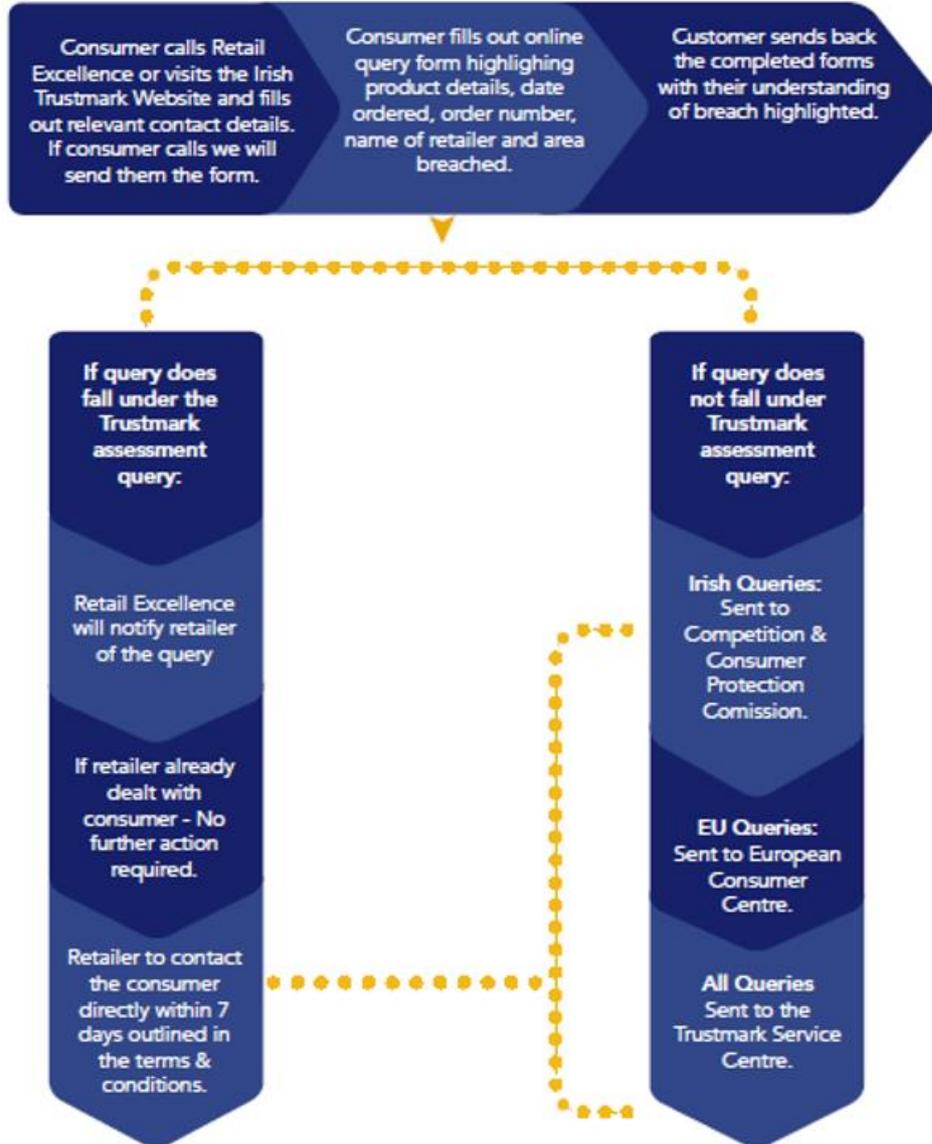
- 11.1 The Privacy Policy must be able to be opened easily and clearly wherever personal data is collected (e.g. via a button named "Privacy Policy" or comparable button or a text box).
- 11.2 In a Privacy Policy you must inform consumers about the basic principles for the handling of personal data, especially the type, scope and purpose of the collection, processing and use of the data.
- 11.3 The Privacy Policy must contain information about the use of cookies and comply with the ePrivacy Regulations.

Schedule 2 The Trustmark



Schedule 3

Consumer Query Process



Signed by

David Fitzsimons

CEO

Lorraine Higgins

Deputy CEO

For and on behalf of

Retail Excellence

Signed by

[Here insert Name of Director]

Director

For and on behalf of

The Applicant

