



LICENSING AGREEMENT CONCERNING THE TRADE MARK SAFE & DOLPHIN DEVICE

1. GENERAL

The Earth Island Institute (hereinafter called the Trade Mark Owner) with the registered Office in San Francisco, California USA, is the Owner of the Trade Mark “SAFE” & dolphin device (hereinafter called the Trade Mark), registered in the European Union under the Number 002322485 on 27 March 2003 for Classes 16,25,28,29,31 & 36 [Annex A], and Switzerland under the Number 488123 on 8 October 2001 for Classes 29 and 41 [Annex B].

The User of the Trade Mark (hereinafter called the User) are the Producers (hereinafter called the Producers), who are engaged in Tuna Fishing and/or processing tuna and tuna products (hereinafter called products), as well as distributors who sell tuna they produce themselves or from other producers (hereinafter called the Distributor). The product uses are listed in Annex A and B and may be changed at any time by the Trade Mark Owner in accordance with the EU or SWISS trade mark laws as applicable.

For User of the Trade Mark it serves as a seal of approval. In accordance with the objects of the Trade Mark Owner, Producers and Distributors as well as products shall thus be commended on achieving the highest standards of environmentally and dolphin safe tuna fishing methods. Ongoing adherence to the aforementioned standards is continually monitored by the Trade Mark Owner. The Monitoring programme is described in Annex C.

The Trade Mark Owner shall set up a Trade Mark Committee (hereinafter called the Committee), consisting of 2 persons namely,

Mr David C Phillips – Earth Island Institute
Dr Paolo Bray – The European Dolphin Safe Monitoring Organisation

2. GENERAL RULES FOR THE USE OF THE TRADE MARK BY THE USERS

- The use of the Trade Mark pre-supposes that only Users who conform with the Earth Island Institute's dolphin safe policy [Annex D] are authorised to display the trade mark on their products.
- The Trade Mark may be displayed on those products which conform to this agreement and on promotional material displayed at the point of sale to the consumer.
- The Trade Mark Owner may at any time without prior arrangement carry out monitoring of products from producers and distributors which display the trade mark. They are also required provide to the Trade Mark Owner all such information and documentation that may be required and to permit access to all processing and storage facilities. If any of the aforesaid do not conform to the Earth Island Institute's dolphin safe policy then the User of the Trade Mark is not permitted to use it until they conform to the Guidelines.
- Furthermore, the Users should pay attention to the following:
 - The Committee must be notified without delay of all changes of address, re-designation or change of ownership of the User's company
 - In business transactions reference must be made to the Trade Mark and registration thereof in the following manner: „ R = registered Trade Mark of the Earth Island Institute. “
 - In case of termination of the right to use the Trade Mark, all references to the Trade Mark and the Holder must be removed from all places.
- The USER has the right and obligation:
 - To report to the Committee without delay all infringements against this Licence Agreement.
 - To submit to the Committee proposals concerning the use the Trade Mark.

3. SPECIAL CONDITIONS FOR RETAILERS USING THE TRADE MARK

Retailers may also be given permission to be a User of the Trade Mark if they adhere to the Earth Island Institute's dolphin safe policy and contribute the appropriate share towards the Trade Mark Owner's costs of providing the monitoring scheme

4. PROCEDURE FOR THE GRANTING THE RIGHT OF USING THE TRADE MARK

- 4.1. For granting the right to the USER to use the Trade Mark the following procedure shall apply:
 - 4.1.1. A written application to the Committee.
 - 4.1.2. The Committee proof conformance with requirements as set down in Paragraph 2 and then applies to the Trade Mark Owner who shall make the final Decision. The Trade Mark Owner is not obligated to give reasons for refusing an application.

5. WITHDRAWAL OF AUTHORISATION

- 5.1. The Trade Mark Owner can at the request of the Committee withdraw the authorisation for the use of the Trade Mark for the following reasons:
 - 5.1.1. On written request of the User.
 - 5.1.2. Automatically on dissolution of the User's company or his insolvency and if as a consequence there are one or more changes in ownership as a consequence but subject to the Proviso that the new owner is not qualified to take over the authorisation.
 - 5.1.3. When a User no longer conforms to the requirements as set down in Paragraph 2 and/or violates his obligations and does not respond to instructions from the Committee.
 - 5.1.4. If a distributor no longer fulfils the requirements under paragraph 2 and/or contravenes his duties in accordance with this agreement and his contravention is not put right within the time limit demanded by the Committee.
 - 5.1.5. If a producer no longer fulfils the requirements under paragraph 2 and/or contravenes his duties in accordance with this agreement and his contravention is not put right within the time limit demanded by the Committee.
- 5.2. The agreement defines in detail the action to be taken when its provisions are broken in particular the required time limit required to resolve them.
- 5.3. When the Trade Mark Owner have decided to revoke a licence, the affected User will irrevocably lose the right of using the Logo for any purchases made after revocation.
. The use of the Logo may be granted after the expiry of two years after an application is submitted in accordance with Paragraph 4.1.
- 5.4. The Trade Mark Owner reserves the right for compensation.

6. LICENCE FEE

6.1. The Licence fee for producers and distributors is based on

- payment of a fixed administrative charge for producers.
- payment of 1 cent US ¹⁾ per case of own brand canned tuna sold in the EU and Switzerland [including Liechtenstein].
- payment is due by the 31st March of each year.

¹⁾ this amount shall be calculated on a share of the Trade Mark owner's annual costs for carrying out its monitoring scheme in the countries supplying canned tuna to the EU and Switzerland [including Liechtenstein].

6.2. The above contributions received shall solely be used by the Trade Mark owner in furtherance of its Marine Mammal Protection Programme.

7. DUTIES OF THE TRADE MARK OWNER

7.1. The Trade Mark Owner undertakes to register and maintain the Trade Mark in the European Union Countries and Switzerland [including Liechtenstein] where the Users are situated.

7.2. The Trade Mark Owner shall, whenever appropriate, address any issues arising in the Public domain from the use of the Logo.

7.3. The Trade Mark Owner shall monitor the work of the Committee.

8. IMPLEMENTATION AND AMENDMENTS

8.1. All licences are effective from the date the signed by the Licensee.

8.2. Any amendments to the registered Trade Mark are subject to the relevant EU and Swiss Law respectively.

9. JURISDICTION

9.1. This agreement and all legal issues arising from it are subject to English and Swiss Law as applicable.

Earth Island Institute

Name of Company.....

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Name and title of authorised signatory

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Name and title of authorised signatory

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Signature

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Signature

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Place and Date

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Place and Date