

TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS

1. DEFINITIONS AND INTERPRETATION

- 1.1 In these Terms, the following expressions have the following meanings:
- 1.2 **Applicable Laws** means any and all laws, legislation, statutes, regulations, bye-laws, decisions, notices, orders, rules (including any rules or decisions of court), local government rules, statutory instruments or other delegated or subordinate legislation and any directions, codes of practice issued pursuant to any legislation, and voluntary codes that are applicable to the sale and purchase of the Goods under these Terms from time to time.
- 1.3 **Business Day** means any day excluding Saturdays, Sundays and other days on which banks are not generally open for a full range of business in London.
- 1.4 **Confidential Information** means all information which is identified in these Terms, or at the time of disclosure, by the disclosing party (or in the case of the Purchaser, any company in the Purchaser Group) as being confidential information, or which may be reasonably regarded as the confidential information of the disclosing party (or in the case of the Purchaser, of any company in the Purchaser Group), including information relating to the business, finances, affairs, products, developments, trade secrets, campaign plans, launch dates, know-how, personnel, customers and suppliers of each party (and in the case of the Purchaser, the Purchaser Group).
- 1.5 **Contract** means each contract formed in accordance with Clause 2 for the sale and purchase of the Goods on these Terms.
- 1.6 **Goods** means the goods (including any instalment, component, part of or raw materials used in such goods) described in the Order.
- 1.7 **Holding Company** shall have the meaning given in section 1159 Companies Act 2006 and shall include parent undertakings as defined in section 1162 Companies Act 2006 and the term shall include companies wherever they are registered.
- 1.8 **Insolvency Event** means an event where any one of the following occurs in relation to a party (a) any step or action is taken, any notice, document, petition or application is filed at court, or any resolution is passed, in connection with that party entering administration, a moratorium, provisional liquidation, a company voluntary arrangement, an arrangement under Part 26A of the Companies Act 2006 or any other composition or arrangement with its creditors (other than in relation to a solvent restructuring), bankruptcy, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring) or having a receiver appointed over any of its assets, (b) an event similar or analogous to those listed in a) above occurs under the law of any jurisdiction of a party, or (c) a party suspends, or threatens to suspend, or ceases, or threatens to cease, to carry on all or a substantial part of its business.
- 1.9 **Intellectual Property Rights** means patents, utility models, rights to inventions, copyright and neighbouring and related rights, trade marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, any rights and all similar or equivalent rights or forms of protection that subsist or will subsist now or in the future in any part of the world.
- 1.10 **Liability** means in relation to any matter, all damages, losses, costs (including legal costs), charges, expenses, actions, adverse judgments, proceedings, claims, penalties, fines and demands (and **Liabilities** shall be construed accordingly).
- 1.11 **Mandatory Policies** means the Purchaser's policies, including but not limited to; the Anti-Bribery and Anti-Corruption Policy, Modern Slavery Policy, Business Ethics Policy, Privacy Policy, Supplier Code of Conduct and the Sourcing Procedure, as amended and made available at www.alpekpolyester.co.uk by the Purchaser from time to time.
- 1.12 **Order** means the Purchaser's order for the Goods (including any applicable Specification), as set out in the Purchaser's purchase order form, or in the Purchaser's written acceptance of the Supplier's quotation, as the case may be.
- 1.13 **Permitted Subcontractor** means any person to whom the Purchaser consents that the Supplier may subcontract any of its rights and obligations under the Contract in accordance with Clause 18.1.
- 1.14 **Price** means the price of the Goods as set out in the Order.
- 1.15 **Purchaser** means Alpek Polyester UK Limited or such other purchaser as may be identified in the Order.
- 1.16 **Purchaser Group** means the Purchaser and each and every Subsidiary Company or Holding Company of the Purchaser and each and every Subsidiary Company of a Holding Company of the Purchaser, in each case, from time to time.
- 1.17 **Representatives** means in relation to a party, its employees, officers, representatives and advisers.
- 1.18 **Specification** means the specification including any plans, drawings, data, description or other information relating to the Goods.
- 1.19 **Supplier** means the person or firm from whom the Purchaser purchases the Goods.
- 1.20 **Supplier Group** means the Supplier and each and every Subsidiary Company or Holding Company of the Supplier and each and every Subsidiary Company of a Holding Company of the Supplier, in each case, from time to time.
- 1.21 **Subsidiary Company** shall have the meaning given in section 1159 Companies Act 2006 and include subsidiary undertakings as defined in section 1162 Companies Act 2006 and the term shall include companies wherever they are registered.
- 1.22 **Terms** means these terms and conditions of purchase, the Contract, the Specification (if any) and any special conditions agreed in writing between the Purchaser and the Supplier for the provision of Goods.
- 1.23 **Warranty Period** means the warranty period for the Goods as set out in the Order, or if no warranty period is stated, twenty four (24) months from delivery of the Goods in accordance with Clause 4.
- 1.24 References to any statute or any section of any statute include any statutory amendment, modification or re-enactment and instruments and regulations under it in force from time to time, unless the contrary is stated. References to any rules, regulations, codes of practice or guidance include any amendments or revisions from time to time.

2. BASIS OF CONTRACT

- 2.1 From time to time, the Purchaser may enter into an Order with the Supplier in accordance with these Terms.
- 2.2 Unless otherwise agreed in writing between the parties, the Order shall be deemed to be accepted on the earlier of:
 - 2.2.1 the Supplier issuing written acceptance of the Order (notwithstanding any conditions attached to such offer or acceptance or any purported incorporation of terms other than these Terms);
 - 2.2.2 any offer made by the Supplier and accepted by the Purchaser; or
 - 2.2.3 any act or conduct by the Supplier consistent with fulfilling the Order (including for the avoidance of doubt, delivery of any Goods),
 at which point and on which date the Contract shall come into existence (**Commencement Date**).
- 2.3 These Terms shall apply to each Contract to the exclusion of any other terms on which any quotation has been given to the Purchaser, that the Supplier otherwise seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

- 2.4 Subject to the provisions of Clause 3.1, no variation to the Order or these Terms shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 2.5 The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Terms.
- 2.6 If there is a conflict or inconsistency between the different parts of these Terms, to the extent necessary, the order or precedence for resolving the conflict is:
 - 2.6.1 these Terms;
 - 2.6.2 any special conditions which may apply to the Terms from time to time and as set out in writing in the Contract; and
 - 2.6.3 the completed Order form.

3. SUPPLY OF GOODS

- 3.1 The quantity, quality and description of the Goods shall be as specified in the Order. The Purchaser may amend or cancel an Order in whole or in part at any time before delivery by giving the Supplier written notice.
- 3.2 The Supplier warrants to the Purchaser for the Warranty Period that it is fully qualified and equipped to perform its obligations under the Contract, and warrants to the Purchaser that the Goods will:
 - 3.2.1 correspond and conform with any applicable Specification and whether or not set out in the Order (or as otherwise agreed in writing between the parties);
 - 3.2.2 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the Purchaser, expressly or by implication, and in this respect the Purchaser relies on the Supplier's skill and judgement;
 - 3.2.3 where they are manufactured products, be free from defects in design, materials and workmanship and remain so for the duration of the Warranty Period;
 - 3.2.4 comply with all Applicable Laws and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods; and
 - 3.2.5 not infringe any Intellectual Property Rights of any person.
- 3.3 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.
- 3.4 The Purchaser may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.
- 3.5 If following such inspection or testing the Purchaser considers that the Goods do not comply or are unlikely to comply with Clauses 3.1 and/or 3.2, the Purchaser shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 3.6 The Purchaser may conduct further inspections and tests after the Supplier has carried out its remedial actions.
- 3.7 If any Goods are not supplied in accordance with the Contract, then the Purchaser shall be entitled at any time within the Warranty Period to require the Supplier to (at the Purchaser's sole option) repair the Goods or to supply replacement Goods in accordance with the Contract within fourteen (14) days or whether or not the Purchaser has previously required the Supplier to repair the Goods or to supply any replacement Goods, to treat the Contract as discharged by the Supplier's breach and require the repayment of any part of the Price which has been paid.

4. DELIVERY

- 4.1 The Goods shall be delivered to the address specified by the Purchaser on the date or within the period specified in the Order. Unless otherwise specified in the Order, the Goods shall be delivered during the normal store opening times 08:00 – 15:00. The Purchaser reserves the right to change store opening times from time to time.
- 4.2 The Purchaser reserves the right to amend any delivery instructions.
- 4.3 Delivery shall be deemed to be made on receipt of the Goods by the Purchaser in accordance with all terms of the Contract.
- 4.4 A delivery note stating the Contract or purchase Order number specified in the Order must accompany each delivery.
- 4.5 Delivery by instalments shall not be accepted by the Purchaser unless previously agreed in writing. If Goods are to be delivered by instalments, the Contract will be treated as a single contract and not severable.
- 4.6 The Supplier shall supply the Purchaser in good time with any instructions or other information required to enable the Purchaser to accept delivery of the Goods.
- 4.7 The Purchaser shall not be deemed to have accepted any Goods until the Purchaser has had a reasonable time to inspect or test them following delivery or, if later, within a reasonable time after any latent defect has become apparent.

5. RISK AND TITLE

- 5.1 Risk of damage to or loss of the Goods shall pass to the Purchaser upon delivery to the Purchaser which shall be complete immediately after unloading, unless otherwise agreed in writing between the parties.
- 5.2 Title to the Goods shall pass to the Purchaser upon delivery, unless payment for the Goods is made prior to delivery, when it shall pass to the Purchaser once payment has been made.
- 5.3 For all Goods in respect of which title has passed to the Purchaser before they pass into the Purchaser's control:
 - 5.3.1 the Supplier shall hold the Goods as the Purchaser's fiduciary bailee; and
 - 5.3.2 the Supplier shall keep the Goods separate from all other goods held by the Supplier and readily identifiable as the property of the Purchaser.
- 5.4 For the purposes of this Clause 5, the Goods include other goods which the Goods have been incorporated into, attached to or mixed with.
- 5.5 Neither the Supplier, or any other person, shall have a lien on, right of stoppage in transit or other rights in or to any Goods title to which have vested in the Purchaser or any Specifications or materials of the Purchaser, and the Supplier shall ensure that relevant third parties accept the exclusion of such lien and rights.

6. PRICE AND PAYMENT

- 6.1 The Price, unless otherwise agreed in writing between the parties, shall be:
 - 6.1.1 fixed at the price set out in the Order, or if no price is quoted, the price set out in the Supplier's published price list in force at the Commencement Date;
 - 6.1.2 exclusive of any applicable VAT (which shall be payable by the Purchaser subject to receipt of a VAT invoice); and
 - 6.1.3 inclusive of all charges for packaging, packing, shipping, carriage, customs, duties and tariffs, insurance and delivery of the Goods to the Purchaser's specified delivery address and any duties, imposts or levies other than VAT.

- 6.2 Unless otherwise stated in the Order, the Supplier may only invoice the Purchaser on or after delivery of the Goods with a separate invoice for each individual delivery. Invoices will not be accepted unless they quote the number of the relevant Order. Invoices shall be issued in the name of the Purchaser or such other entity as the Purchaser may require and sent to the Purchaser's address specified in the Order or such other address as the Purchaser may require.
- 6.3 Unless otherwise stated in the Order, the Purchaser shall pay the undisputed amount of the Price within sixty (60) days from end of the relevant month following: (i) receipt of invoice by the Purchaser of a proper invoice; or (ii) acceptance of the Goods in question by the Purchaser, whichever is later.
- 6.4 If the Purchaser receives an invoice which it reasonably believes includes a sum which is not valid and properly due, the Purchaser shall notify the Supplier in writing as soon as reasonably practicable. The Purchaser shall pay the balance of the invoice which is not in dispute in accordance with Clause 6.3. The Purchaser's failure to pay the disputed amount of the Price shall not be deemed to be a breach of these Terms. In the event that all or part of any disputed amounts are agreed by the Purchaser or otherwise determined in accordance with the Contract as payable, the Purchaser shall pay the Supplier interest on such amounts date from the date when such payment was due until the date of actual payment at the rate of one (1) per cent per annum above HSBC Bank plc base rate from time to time.
- 6.5 Time of payment shall not be of the essence of the Contract.
- 6.6 The Purchaser may set off against the Price any sums owed to the Purchaser and/or any company in the Purchaser Group by the Supplier. If the liabilities to be set off are expressed in different currencies, the Purchaser may, for the purpose of set off, convert either liability at the rate of exchange which shall be HSBC Bank plc's spot rate for that currency at the close of business (being 17:00 hours) on the relevant Business Day. Any exercise by the Purchaser of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.
- 6.7 If either party defaults in the payment of the Price or sums payable under the Contract, the liability of such party shall be increased to include interest on the outstanding balance of such sums from the date when such payment is due until the date of actual payment at a rate per annum (both before and after judgment) of three (3) per cent per annum above HSBC Bank plc base rate from time to time. Such interest will accrue on a daily basis. The parties agree that interest payable at that rate is a substantial remedy for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998.
- 7. INTELLECTUAL PROPERTY**
- 7.1 Except as expressly provided, nothing in these Terms shall give a party any rights in respect of any Intellectual Property Rights of the other party.
- 7.2 All Purchaser materials are the exclusive property of the Purchaser and nothing in these Terms shall have the effect of transferring any rights or title in or to the Purchaser materials.
- 8. LIABILITY**
- 8.1 Nothing in these Terms shall exclude or limit the liability of any party for:
- 8.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- 8.1.2 fraud or fraudulent misrepresentation or wilful default; and
- 8.1.3 any matter in respect of which it would be unlawful to exclude or restrict liability.
- 8.2 Subject to Clause 8.3, neither party shall under any circumstances whatsoever be liable to the other, whether in contract, tort (including negligence), misrepresentation, restitution, breach of statutory duty, or otherwise, for loss of profit or other indirect or consequential loss or damage.
- 8.3 Nothing in these Terms shall limit any liability under Clauses 6, 7, 8, 9 and 15.
- 9. INDEMNITY**
- 9.1 The Supplier shall indemnify the Purchaser against any and all Liabilities (calculated on a full indemnity basis) and all other reasonable costs and expenses awarded against or incurred or paid by the Purchaser as a result of or in connection with:
- 9.1.1 breach of any warranty given by the Supplier in relation to the Goods;
- 9.1.2 any claim that the Goods infringe, or their importation, use or resale, infringes the Intellectual Property Rights of any other person, except to the extent that the claim arises from compliance with any Specification supplied by the Purchaser;
- 9.1.3 any claim made against the Purchaser in respect of any breach or alleged breach by the Purchaser of any Applicable Laws; and
- 9.1.4 any act or omission of the Supplier or the Supplier personnel in supplying, delivering and installing the Goods, including any injury, loss or damage to persons caused or contributed to by any of their negligence or by faulty design, workmanship or materials (except to the extent that the injury, loss or damage is caused by the negligent act or omission of the Purchaser).
- 9.2 This Clause 9 shall survive the termination of the Contract.
- 10. INSURANCE**
- 10.1 During the term of the Contract and for a period of three (3) years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the Liabilities that may arise under or in connection with the Contract, and shall, on the Purchaser's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.
- 11. TERMINATION**
- 11.1 The Purchaser shall be entitled to cancel the Order in respect of all or part only of the Goods by giving notice to the Supplier at any time prior to delivery or performance without incurring any liability to the Supplier other than to pay for Goods already delivered or performed at the time of such notice.
- 11.2 The Purchaser shall be entitled to terminate the Contract immediately without liability to the Supplier by giving notice in writing to the Supplier at any time if:
- 11.2.1 the Supplier or its Permitted Subcontractors repeatedly breaches any of these Terms as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to these Terms;
- 11.2.2 the Supplier suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
- 11.2.3 there is a change of control of the Supplier (being a company) within the meaning of section 1124 Corporation Tax Act 2010.
- 11.2.4 Either party may terminate the Contract immediately without liability to the other party by giving notice in writing to the other party at any time if:
- 11.2.5 the other party (and in the case of the Supplier, its Permitted Subcontractors) commits a material breach of these Terms;
- 11.2.6 the other party (and in the case of the Supplier, its Permitted Subcontractors) commits a breach of these Terms which can be remedied, but the other party (and in the case of the Supplier, its Permitted Subcontractors) fails to do so within thirty (30) days;
- 11.2.7 an Insolvency Event occurs in relation to the other party; or
- 11.2.8 the other party becomes subject to any events that are analogous to those set out in Clause 11.2.7 in any other jurisdiction.
- 11.3 The Purchaser shall be entitled to terminate the Order or the Contract for convenience by giving the Supplier written notice.
- 12. CONSEQUENCES OF TERMINATION**
- 12.1 Termination of the Contract shall not affect any of the rights, remedies, obligations or Liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 12.2 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.
- 13. FORCE MAJEURE**
- 13.1 Neither party shall be in breach of this agreement or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control (**Force Majeure Event**). The time for performance of such obligations shall be extended accordingly.
- 13.2 If the Force Majeure Event prevents, hinders or delays the affected party's performance of its obligations for a continuous period of more than thirty (30) days the party not affected by the Force Majeure Event may terminate the Contract by giving notice in writing to the affected party.
- 14. CONFIDENTIALITY**
- 14.1 Each party undertakes to the other to keep all Confidential Information confidential and not disclose to any person any Confidential Information except as permitted by Clause 14.2.
- 14.2 Each party may disclose the other party's Confidential Information:
- 14.2.1 to its Representatives or members of the Purchaser Group or Supplier Group who have a need to know the Confidential Information;
- 14.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority; and
- 14.2.3 for the purposes of performing its obligations under the Contract.
- 14.3 The Supplier shall procure that any Permitted Subcontractors and the Representatives of such Permitted Subcontractors comply with the terms of this Clause 14 as if they were the Supplier.
- 14.4 The provisions of this Clause 14 shall survive any termination or expiry of the Contract.
- 15. COMPLIANCE**
- 15.1 In performing its obligations under the Contract, the Supplier shall comply with all applicable laws, statutes, regulations and codes from time to time in force and comply with the Mandatory Policies.
- 15.2 The Purchaser may treat the Supplier's failure to comply with Clause 15.1 as a material breach of the Contract.
- 16. INSPECTION AND AUDITS**
- 16.1 The Purchaser, its agents and/or independent auditors on the Purchaser's behalf shall have the right at any time to inspect the Supplier's records and books relating to the supply of the Goods to the Purchaser (including the Supplier's financial records and books for the supply of the Goods), and the Supplier's processes of manufacture and/or assembly of the Goods and/or any other matter relating to the supply of the Goods.
- 16.2 Any such inspection processes shall be subject to reasonable prior written notice.
- 17. RIGHTS AND REMEDIES**
- 17.1 Each right or remedy of the Purchaser is without prejudice to any other right or remedy of the Purchaser, whether or not under the Contract.
- 17.2 These Terms shall apply to any repaired or replacement goods supplied by the Supplier.
- 17.3 Notwithstanding the provisions of Clause 4, if any Goods are not delivered on the due date then the Purchaser shall be entitled to
- 17.3.1 cancel the Order (or any part) without liability to the Supplier;
- 17.3.2 purchase substitute goods elsewhere;
- 17.3.3 recover from the Supplier any loss or additional costs incurred; and/or
- 17.3.4 delay payment of the Price until delivery of the Goods is complete.
- 18. SUBCONTRACTING, ASSIGNMENT AND OTHER DEALINGS**
- 18.1 The Supplier shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under these Terms (or the Contract, as applicable) without the written consent of the Purchaser.
- 18.2 The Purchaser shall be entitled to exercise its rights or perform any of its obligations (in whole or in part) through any company in the Purchaser's Group, and/or transfer its rights and obligations under these Terms (or the Contract, as applicable), (in whole or part) to any third party on giving notice in writing to the Supplier.
- 19. RIGHTS OF THIRD PARTIES**
- 19.1 To the extent to which any Goods provided under the Contract are for the benefit of any company in the Purchaser Group, that company may enforce the terms of the Contract subject to and in accordance with the Contract and the provisions of the Contracts (Rights of Third Parties Act) 1999 (**1999 Act**).
- 19.2 Any company in the Purchaser Group may enforce the terms of Clause 6 subject to and in accordance with the Contract and the provisions of the 1999 Act.
- 19.3 Except as provided in Clauses 19.1 and 19.2, no third party (as defined in the 1999 Act) except for any permitted successor or assignee of any party to the Contract has any rights under the 1999 Act to enforce any term of these Terms.
- 20. WAIVER**
- No failure or delay by a party to exercise any right or remedy provided under these Terms or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 21. NOTICES**
- 21.1 Any notice to be given by either party to the other under this Agreement must be in writing addressed to that other party at its registered office or principal place of business or such other address or by email address as may have been notified for these purposes. Notices shall be delivered personally, sent by prepaid recorded, special delivery or first class post (or in the case of overseas post, by airmail) or sent by email.
- 21.2 A notice is deemed to have been received if delivered by hand, at the time of delivery, if sent by prepaid recorded, special delivery or first class post, on the second working day after posting and if sent by prepaid air mail post, on the fifth business day from the date

of posting. Any notice sent by email will be effective only when actually received in readable form and service shall be deemed to be effected on the same day on which it is sent.

22. NO PARTNERSHIP

Nothing in this Agreement or any arrangement contemplated by it shall constitute either party a partner, agent, fiduciary or employee of the other party.

23. ENTIRE AGREEMENT

The Contract constitutes the entire agreement between the parties and extinguishes all previous agreements, arrangements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter, except that this Clause 23 does not affect the liability of either party for fraud or fraudulent misrepresentation.

24. SEVERABILITY

If any provision or part-provision of the Contract 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 the Contract.

25. SURVIVAL

Any termination or the expiry of the Contract will not affect the coming into force or the continuance in force of any provision which is intended to come into or continue in force on or after such termination or expiry.

26. GOVERNING LAW AND JURISDICTION

26.1 The Contract 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) is governed by and construed in accordance with the law of England and Wales.

26.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).

Alpek Polyester UK Limited - Special Conditions Of Purchase Relating To Plastic Packaging

1. DEFINITIONS AND INTERPRETATION

- 1.1 In these Conditions, unless the context otherwise requires, the following definitions apply:
 - 1.1.1 "Applicable Laws" means any and all laws, legislation, statutes, regulations, by-laws, decisions, notices, orders, rules (including any rules or decisions of court), local government rules, statutory instruments or other delegated or subordinate legislation and any directions, codes of practice issued pursuant to any legislation, and voluntary codes that are applicable to the sale and purchase of the Goods under the Contract from time to time;
 - 1.1.2 "APUK" means Alpek Polyester UK Limited;
 - 1.1.3 "Contract" means a contract in any form between APUK and the Supplier in relation to the supply of goods;
 - 1.1.4 "Good Industry Practice" means the degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a highly skilled and experienced person supplying goods of the same (or materially similar) nature to the Goods in compliance with all Applicable Laws (including the PPT Regulations) and the terms of the Contract;
 - 1.1.5 "Goods" means the goods to be supplied under the Contract (comprising Unfinished Goods and/or Finished Goods, as applicable);
 - 1.1.6 "Finished Goods" means Goods not intended to be Substantially Modified following supply to APUK;
 - 1.1.7 "Packaging" means the packaging in which the Goods are supplied under the Contract;
 - 1.1.8 "PPT" means plastic packaging tax chargeable by virtue of the PPT Regulations;
 - 1.1.9 "PPT Regulations" means Part 2 of the Finance Act 2021, implemented by the Plastic Packaging Tax (General) Regulations 2022 and the Plastic Packaging Tax (Description of Products) Regulations 2021, as amended from time to time;
 - 1.1.10 "Records" means the records and information referred to under Condition 3 of these Conditions;
 - 1.1.11 "Related Party" means the suppliers, vendors, agents, and subcontractors who are involved in the chain of supply in relation to the Goods and/or the Packaging supplied to APUK;
 - 1.1.12 "Substantially Modified" has the meaning given to it under the PPT Regulations;
 - 1.1.13 "Supplier" means the supplier identified in the Contract; and
 - 1.1.14 "Unfinished Goods" means Goods intended to be Substantially Modified following supply by APUK.

1.2 References to a statutory provision includes a reference to any modification, consolidation or re-enactment or replacement of the provision from time to time in force and all subordinate instruments, orders or regulations made under it.

1.3 Any document (including the Contract) will be construed as a reference to that document as amended from time to time.

2. WARRANTY AND INDEMNITY

2.1 The parties acknowledge that:

2.1.1 Unfinished Goods are expected to be Substantially Modified by or on behalf of one or more of APUK or its customers, end-customers or contractors following their supply under the Contract;

2.1.2 the Supplier will account for and pay PPT in respect of: a) the Finished Goods; and b) the Packaging to such extent as may be due in accordance with the PPT Regulations, except for the Finished Goods and the Packaging in respect of which APUK or a customer, end-customer or contractor of APUK is the importer of record into the UK; and

2.1.3 the Supplier and APUK and their respective customers, end-customers or contractors (as applicable) will account for and pay PPT in respect of: a) the Finished Goods and the Packaging in respect of which the entity concerned is the importer into the UK and; b) the Unfinished Goods, in each case to such extent as may be required in accordance with the PPT Regulations, subject always to the Supplier complying with these Conditions.

2.2 The Supplier warrants that, except to the extent APUK or another entity will account for and pay PPT in respect of the Goods and the Packaging as contemplated under Condition 2.1.3:

2.2.1 the Supplier or a Related Party will be responsible for accounting for and payment of PPT in respect of the Goods and the Packaging in accordance with the PPT Regulations;

2.2.2 the Supplier will pay or will procure that the relevant Related Parties will pay the PPT and other taxes or duties (if any) in respect of the Goods and/or the Packaging supplied to APUK, or the Supplier or the relevant Related Party will obtain such exemptions, credit or other saving as may be available from time to time, in each case so the PPT and other taxes or duties in respect of the Goods and the Packaging in the form in which they are supplied to APUK are discharged in full; and

2.2.3 the Supplier will and will require that the Related Parties will include on all relevant invoices issued in relation to the manufacture and supply of the Goods and the Packaging supplied to APUK details of any PPT paid in respect of the Goods or the Packaging supplied to APUK (including any related raw materials and intermediates).

2.3 The Supplier further warrants that:

- 2.3.1 the Supplier will secure from the Related Parties, undertakings relating to the retention of records and the sharing of information (including with APUK and relevant authorities and such third parties as APUK may require) with respect to the manufacture and supply of the Goods and the Packaging and the accounting for and payment of PPT in respect of the Goods and the Packaging to the extent required to comply with the PPT Regulations and as APUK may reasonably require; and
- 2.3.2 without prejudice to the specific requirements of these Conditions, the Supplier will comply with the PPT Regulations.
- 2.4 The Supplier will indemnify APUK in respect of any all liabilities, costs or expenses (including attorney's fees and other costs) resulting from any liability, claim, or demand for APUK to pay PPT or other liability or loss of saving in connection with the PPT Regulations as a consequence of a failure by the Supplier to comply with these Conditions.

3. RECORDS AND NOTIFICATIONS

- 3.1 The Supplier will keep and will ensure that the Related Parties keep complete and accurate records relating to the processing and use of the Goods and the Packaging as expressly required by these Conditions or otherwise required by law or Good Industry Practice, including, but not restricted to evidence of the PPT and any other tax or duty accounted for and paid in respect of the manufacture and supply of the Goods or the Packaging (including any related raw materials and intermediates).
- 3.2 The Supplier will keep and will require the Related Parties to keep the Records in a form that is capable of audit by APUK, unless a specific form is required by APUK.
- 3.3 The Supplier will and will procure the Related Parties will make copies of the Records available to APUK upon request.
- 3.4 The Records may be shared by APUK with the relevant authorities and such third parties as APUK may require for any purpose in connection with the PPT Regulations.
- 3.5 The Records must be kept for a period of at least six (6) years from the date of supply of the Goods under the Contract or such longer period as may be required by law or Good Industry Practice.
- 3.6 The Supplier will, and will procure that the Related Parties will, promptly give to APUK the Records and such information and documentation as APUK may require from time to time to comply with the PPT Regulations, including with respect to the accounting for and payment of PPT in respect of the Goods and the Packaging. The Supplier will, and will procure that the Related Parties will, promptly inform APUK of any material change to any information or documentation previously provided in compliance with these Conditions and shall also promptly provide any other information or documentation that it considers (or ought reasonably consider) to be materially relevant to the assessment of liability for PPT or the fulfilment by any entity (including the parties) of any obligations under the PPT Regulations with respect to the Goods or the Packaging.

4. AUDIT

- 4.1 The Supplier will allow or will procure that APUK and any auditors of or other agents or advisers to APUK are allowed to access any of the Supplier's premises, personnel, facilities, systems and Records and those of any Related Party as APUK may reasonably require in order to:
 - 4.1.1 satisfy the requirements of the PPT Regulations;
 - 4.1.2 fulfil any legally enforceable request by any tax authority or other regulatory body or competent authority;
 - 4.1.3 establish and check the accuracy of the PPT payable in respect of the Goods or the Packaging;
 - 4.1.4 apply for and obtain any credit, rebate or deferral of PPT in respect of the Goods or the Packaging; and
 - 4.1.5 audit and take copies of Records as necessary to verify the Supplier's compliance with these Conditions.
- 4.2 APUK will provide at least seven (7) days' notice of its intention to conduct an audit unless such audit is conducted in respect of a suspected fraud, in which event no notice is required.
- 4.3 APUK will use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier.
- 4.4 Subject to such confidentiality obligations as may reasonably be required, the Supplier will:
 - 4.4.1 provide APUK (and its auditors and other advisers) with all reasonable co-operation, access and assistance in relation to each audit; and
 - 4.4.2 allow APUK and any auditors of or other advisers to APUK to meet with the Supplier's personnel and the Related Parties' personnel and ensure that such personnel provide all explanations reasonably necessary to perform the audit effectively.
- 4.5 The parties will bear their own costs and expenses incurred in respect of compliance with their obligations under these Conditions unless the audit identifies a material default by the Supplier, in which case the Supplier will reimburse APUK for all its reasonable costs incurred in the course of the audit.
- 4.6 If an audit identifies that the Supplier is failing to comply with any of its obligations under these Conditions then, without prejudice to the other rights and remedies of APUK, the Supplier will take the necessary steps to comply with its obligations at no additional cost to APUK.

5. CONTINUOUS IMPROVEMENT

- 5.1 The Supplier agrees to use its commercially reasonable efforts to minimise the PPT payable in respect of the manufacture and supply of the Goods and the Packaging supplied to APUK (including any related raw materials and intermediates) which includes implementing the following:

- 5.1.1 improvements in quality, technology and use of best practices relating to the supply of Goods and the Packaging to APUK;
- 5.1.2 reduction of waste relating to the Goods and the Packaging which cannot be recycled;
- 5.1.3 any objectives or conditions required by APUK's customers and notified to the Supplier from time to time;
- 5.1.4 corresponding improvements in the supply chain between the Supplier and the Related Parties in connection with the Goods and the Packaging; and
- 5.1.5 any other objectives agreed by the APUK and the Supplier from time to time.
- 5.2 Where, in the reasonable opinion of APUK, the Supplier is not acting in accordance with condition 5.1 above, without prejudice to its other rights or remedies, APUK may notify the Supplier's representative (**Improvement Notice**) which shall specify the improvements and outline the actions the Supplier needs to take with respect to condition 5.1.
- 5.3 Within five (5) working days of receipt of the Improvement Notice, the Supplier shall either:
- 5.3.1 submit a response to the Improvement Notice (**Improvement Plan**), even if it disputes that it is responsible for the matters which are subject to the Improvement Notice; or
- 5.3.2 inform APUK that it does not intend to submit an Improvement Plan, in which event APUK shall, without prejudice to its other rights or remedies, be entitled to terminate the Contract and may not elect to place any further orders for the Goods from the Supplier.
- 5.4 APUK shall endeavour to approve the draft Improvement Plan within five (5) working days of receipt, or it shall inform the Supplier why it cannot accept the draft Improvement Plan and this shall be escalated to senior management (in respect of APUK and the Supplier). In such circumstances, the Supplier shall address all concerns in a revised Improvement Plan, which it shall submit to APUK within (5) working days of receipt of APUK's comments (subject to any such extension agreed in writing between the parties). If no such notice is given, the Supplier's draft Improvement Plan shall be deemed to be agreed.
- 5.5 APUK shall endeavour to approve the revised Improvement Plan within five (5) working days of receipt. If, despite the measures taken under condition 5.4, an Improvement Plan cannot be agreed, then APUK may elect to terminate the Contract and choose not to place any further orders for the Goods from the Supplier.
- 5.6 APUK shall be under no obligation to issue an Improvement Notice if it exercises its termination rights in connection with any other right or remedy in the Contract.
- 5.7 The Supplier shall promptly upon request from APUK, provide evidence of its efforts to comply with this condition 5.
- 5.8 APUK may make suggestions as to how the Supplier could achieve efficiencies and cost reductions relating to performance of the Supplier's obligations under these Conditions and the Supplier agrees to implement reasonable suggestions made by APUK.
- 5.9 Appropriate representatives of the parties shall meet quarterly (and in advance of any filings to any tax authority with respect to any PPT payable) to agree targets for cost reduction of any PPT payable. The Supplier will use all reasonable endeavours to achieve the targets identified for the relevant quarter.
- 5.10 Each party shall bear their own costs associated with implementation this Condition 5 .
- 5.11 Each party shall disclose all improvements of which it is aware and such improvements shall be subject to mutual agreement of the parties.
- 6. FURTHER ASSURANCE**
- 6.1 At APUK's expense, the Supplier will, and will use all reasonable endeavours to procure that any necessary third party (including a Related Party) will, promptly execute and deliver such documents and perform such acts as may reasonably be required to enable APUK to fulfil its responsibilities and/or mitigate its liability under the PPT Regulations (including applying for and obtaining any credit, rebate or deferral of PPT in respect of the Goods or the Packaging) and for the purpose of giving full effect to these Conditions.