

TERMS AND CONDITIONS OF PURCHASE

These Terms and Conditions of Purchase (these "**Terms**") and any Purchase Order (collectively, this "**Agreement**") are between Pactiv Evergreen Group Holdings Inc. and any other direct or indirect subsidiary of Pactiv Evergreen Group Holdings Inc. including without limitation Pactiv LLC, Evergreen Packaging LLC, Fabri-Kal LLC and Pactiv Evergreen Services Inc. (collectively, "**Company**") listed on the Purchase Order and the person or entity that has received Company's Purchase Order (as defined below) for the purposes of supplying any products ("**Products**") or services ("**Services**") (such person or entity, the "**Supplier**"), and govern the supply and delivery of such Products or Services by Supplier to Company. Further, this Agreement only applies to the Purchase Order and the Products or Services ordered under that Purchase Order as accepted by Supplier. Company and Supplier are each generically referenced as a "**Party**" and collectively as the "**Parties**."

1. **PURCHASE ORDERS SUBMISSION AND ACCEPTANCE.**

- 1.1. **Purchase Order.** A "**Purchase Order**" shall mean the order form supplied by Company to Supplier that specifies Company's offer to purchase Supplier's Products or Services.
- 1.2. **General Submission and Acceptance.** These Terms are incorporated into every submitted Purchase Order even if these Terms are not attached to the Purchase Order. Any additional or conflicting terms or conditions contained on any Supplier invoice or packing slip shall not be binding on Company, and no action by Company (including the payment of any such invoice in whole or in part) shall be construed as binding Company with respect thereto. Supplier's written acceptance, Supplier's failure to notify Company of Supplier's rejection of a Purchase Order within twenty-four (24) hours after receipt by Supplier of a Purchase Order, Supplier's commencement of performance of ordered Services for Company or Supplier's shipment of ordered Products to Company, whichever occurs first, shall be deemed an effective acceptance by Supplier of the Purchase Order and these Terms.
- 1.3. **Modification.** Company may make modifications to a Purchase Order upon notice to Supplier, including modifications to: (a) type of Product(s) or Service(s); (b) quantity of Product(s); (c) time of delivery; (d) place of delivery; (e) method of shipment or packing; (f) specifications, drawings and data, where the items to be furnished are to be specially manufactured for Company ("**Specifications**"); and (g) standards of supplying Products and performance of Services. Supplier has one (1) business day to respond if such modifications cannot be accommodated or the modifications will be deemed accepted. Supplier will promptly notify Company of any additional reasonable charges incurred due to one or more modifications to a Purchase Order. Likewise, Supplier will reduce the charges of a Purchase Order commensurate with the modifications if applicable. In the event that Company modifies a Purchase Order for Custom Products (as defined below) purchased from the Supplier, Company will pay for any Custom Products made before Company's modification of the Purchase Order. Any modifications by Supplier to the Purchase Order after it has been accepted or the Specifications will only be effective upon Company's written consent.

2. **TERMINATION.** Company may terminate any Purchase Order(s) and/or this Agreement immediately upon notice to Supplier in the case of: (a) Supplier's breach of this Agreement if Supplier fails to cure such breach within ten (10) days after receiving notice from Company of such breach; (b) Supplier's failure to comply with any Law; (c) the insolvency or bankruptcy of Supplier; (d) Supplier's delivery of Nonconforming Products; (e) Supplier's failure or inability to timely manufacture and deliver the Products, for any reason; (f) Supplier's repudiation or threatened repudiation of any of its obligations under this Agreement; (g) Company's inability to obtain and deliver Company Products on a timely basis; or (h) if the Products cannot be prepared in accordance with the Specifications and/or the terms and conditions of this Agreement, for any reason. Further, Company may terminate this Agreement, or any Purchase Order, in whole or in part, at any time and for any reason by giving Supplier written notice at least thirty (30) days in advance of the designated termination date.

3. **COMPANY PROPRIETARY INFORMATION AND PUBLICITY.** Supplier shall treat all information furnished by Company or generated on behalf of Company as confidential and shall not disclose any such information to any other person or entity or use such information itself for any purpose without Company's written consent. Supplier shall not advertise or publish its relationship to Company or use any of Company's name, logo, or trademarks or any other Company intellectual property without Company's express written consent. Nothing in this Agreement shall modify or weaken any confidentiality obligations the Parties may have otherwise agreed to, including in any non-disclosure agreement.

4. **PRICE, INVOICING, PAYMENT AND DISCOUNTS.**

- 4.1. **Pricing.** All purchase prices include, and Supplier is solely responsible for, all costs and expenses relating to packing, crating, boxing, transporting, customs, taxes, tariffs and duties, insurance, and any other similar financial contributions or obligations relating to the production, manufacture, sale, and delivery of the Products. All prices are firm and are not subject to increase for any reason during the Term.
- 4.2. **Most Favored Customer.** Supplier shall not at any time sell the same Products or Services furnished hereunder to a third party at prices below those stated in this Agreement. If Supplier charges a third party a lower price for these Products or Services, Supplier must immediately apply the lower price to Company for the Products or Services ordered in the Purchase Order. In determining net prices extended to other purchasers, the Parties shall consider any discounts, rebates, allowances, premiums, favorable payment terms and other benefits extended to a third

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party. If Supplier fails to provide the lower price to Company, Company, at its option, may (a) reduce payment to or obtain a credit from Supplier to the extent its prices to Company are not as favorable as the net prices extended by Supplier to any other purchaser; and (b) terminate the applicable portion of this Agreement or any open Purchase Order. Company's representatives may, with reasonable notice, audit the corporate, manufacturing and other facilities and records of Supplier and its affiliates for the purpose of exercising the rights and performing the obligations of Company under this Agreement and Supplier agrees to reimburse Company for the difference between the price(s) charged to Company's and any lower price charged to a third party.

- 4.3. **Discounts.** The Parties may agree to certain cash discounts for payment of invoices for Products or Services made earlier than set forth in Section 4.5, below. Those discounts are applied to the price per unit independent of freight, taxes, duties, rebates, allowances, returns, credits and other deductions and charges incurred or approved in writing by Company on the transaction.
- 4.4. **Taxes.** Company will not be liable for any foreign, federal, state, local, provincial or non-government organizational taxes, duties, customs or assessments in connection with the manufacture, import, sale, purchase, transportation, use, environmental impact, or possession of the Products or Services ordered under this Agreement, all of which shall be borne solely by Supplier, either directly by Supplier or by reimbursement to Company on Company's demand therefor, including but not limited to the purchase of raw materials associated with the transaction. Notwithstanding the foregoing, each Party will be responsible for its own employment, income, property, and similar taxes.
- 4.5. **Invoicing and Payment.** Supplier shall present an invoice for each Purchase Order of Products upon shipment of such Products. Company shall pay all undisputed amounts of Supplier's invoice within 90 days of receipt. Each invoice from Supplier will set forth the information and other data specified by Company. Amounts set forth in an Ordering Document cannot be exceeded without the prior written approval of Company. Company's good faith dispute of any amount invoiced by Supplier shall not be considered a breach of this Agreement. Supplier shall continue to perform its obligations under this Agreement during the pendency of any dispute. Invoices must be issued within one (1) year from the provision of Products pursuant to a Purchase Order or payment will be considered waived. For transactions involving the purchase of Services under this Agreement, Supplier will invoice Company for an ordered Service upon provision of the Services, but no later than one (1) year from the provision of Services pursuant to a Purchase Order.
- 4.6. **Setoff.** Company may deduct or set off claimed or disputed amounts from any claims by Supplier for money due or to become due from Company.

5. **DELIVERY.**

- 5.1. **Labeling.** Prior to and with the shipment of Products purchased under this Agreement, Supplier will furnish to Company sufficient warning and notice in writing, including appropriate labels on Products, containers and packaging of any hazardous raw material that is a part of any of the Products, together with such special handling instructions as may be necessary to advise carriers, Company and their respective employees of how to exercise that measure of care and precaution that will best prevent bodily injury or property damage in the handling, transportation, processing, use or disposal of the Products, containers and packaging shipped to Company. If requested by Company, Supplier will promptly furnish to Company in such form and detail as Company may direct: (a) a list of all raw materials in the Products purchased hereunder; (b) the amount of one or more raw materials; and (c) information concerning any changes in or additions to such raw materials.
- 5.2. **DDP and Transfer of Title.** Supplier will deliver ordered Products in accordance with the Specifications or approved samples, and at the prices and quantities in this Agreement, on an INCOTERMS® 2020 Delivery Duty Paid basis to the address identified in the Purchase Order. Supplier warrants that all Products will be (a) suitably packed and marked with Company's Purchase Order number; (b) transported in clean, hygienic and physically sound conditions; (c) shipped in accordance with shipping and special handling instructions, proper warnings of hazardous or dangerous materials and otherwise in accordance with applicable laws, regulations, and other requirements of common carriers; and (d) unloaded by Supplier's carrier. Products received in advance of Company's delivery schedule may, at Company's option, be returned at Supplier's expense or be accepted and payment withheld (with the option of being reduced in the event Company incurs storage costs for such Products) until after the scheduled delivery date. Title and risk of loss will shift from Supplier to Company upon delivery to the address identified in the Purchase Order.
- 5.3. **TIME IS OF THE ESSENCE. SUPPLIER AGREES THAT TIME, QUANTITY AND DELIVERY ARE OF THE ESSENCE IN PERFORMING SUPPLIER'S OBLIGATIONS UNDER THIS AGREEMENT.**

6. **INSPECTION; NONCONFORMING PRODUCTS.**

- 6.1. **Inspection.** Supplier shall only ship and deliver to Company Products that meet each of the terms and conditions of this Agreement and all the applicable Specifications. The Products (and work-in-process relating to the Products) shall be subject to inspection, evaluation and testing by Company or Company's designee at any reasonable time and from time to time before, during and after manufacture, delivery and performance. Supplier shall provide

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Company or Company's designee with access to its own and its sub-suppliers' and other subcontractors' facilities for such purposes. Notwithstanding prior inspections, the Products are subject to inspection, evaluation and testing at Company's facility or at a facility Company may designate, and notwithstanding any payment that may be made, Products shall not be deemed accepted until such in-facility inspection, evaluation and testing demonstrate to Company's satisfaction that the Products conform to this Agreement and the applicable Purchase Order and Specifications. Notwithstanding the foregoing sentence, the Products shall be deemed acceptable after one (1) month from the provision of Products pursuant to a Purchase Order, to the loading dock of the plant, warehouse or other facility identified in the Purchase Order.

- 6.2. **Nonconforming Products.** If Supplier delivers any Product that does not meet the terms and conditions of this Agreement and all applicable Specifications (a "**Nonconforming Product**") to Company or any of Company's distributors or customers, at Company's election, Supplier shall: (a) pay to Company all of Company's costs and expenses, including the purchase price of each of the Nonconforming Products if Company has already paid for such Nonconforming Products and the incremental expenses associated with storing and returning such Nonconforming Products to Supplier if applicable; or (b) apply a credit in the amount set forth in subsection (a) above toward Company's future payments; and (c) promptly (and in any event, within seven (7) days) replace the Nonconforming Products with conforming Products at no cost to Company and pay for any additional or incremental expenses associated with such replacement, such as expedited shipping that Company's customers or distributors may require. Company may also elect to replace Nonconforming Products with conforming Products of the same or higher quality from any other source, and Supplier will reimburse Company for the difference between the cost of the replacement Products and the purchase price paid by Company, plus any additional or incremental expenses associated with such replacement. In addition, Company may exercise any other right or remedy available to Company under this Agreement, at law or in equity.

7. **WARRANTY.**

- 7.1. **General Representations and Warranties.** Each Party represents and warrants that: (a) it is duly organized, validly existing and in good standing; and (b) it has the full right, power and authority to enter into this Agreement and to perform its obligations hereunder. Supplier further represents and warrants that (c) it is in compliance with all applicable Laws and contracts entered into by Supplier or its Affiliates relating to this Agreement; (d) it has obtained all Permits required by applicable Laws to conduct its business generally and to exercise its rights and perform its obligations under this Agreement; and (e) to the extent applicable, it agrees with the Federal Acquisition Regulation (FAR) flow-down provisions set forth at <https://pactivevergreen.com/far-clauses> which may be modified from time to time to comply with applicable law, and which are hereby incorporated into this Agreement.
- 7.2. **Representations and Warranties as to the Products.** With respect to any Products furnished by Supplier under this Agreement, Supplier represents, warrants, and guarantees, that as of the date of delivery of each shipment of Products under this Agreement, and surviving Supplier's delivery of the Products, Company's receipt, inspection, use and resale of and payment for the Products, that each Product will: (a) conform to the standards, Specifications, samples or descriptions furnished by Supplier, including all information and documentation referenced in or attached as exhibits to the Agreement (b) be merchantable, of good quality and workmanship, free from defects in design, material or workmanship (latent or otherwise), and fit and sufficient for Company's intended use; (c) have been transported, held, processed, manufactured, packaged, and stored in compliance with all Laws (as defined below); (d) not infringe or misappropriate any intellectual property rights of any third party; and (e) be new, and not used, refurbished or reconstituted and (f) of good title and free of any liens or encumbrances. These warranties are in addition to all other warranties, express, implied, statutory, and common law. References to "**Law**" shall mean any applicable statute, law, ordinance, regulation, rule, code, constitution, treaty, common law, Governmental Order or other requirement or rule of law of any Governmental Authority.
- 7.3. **Representations and Warranties as to the Services.** With respect to any Services furnished by Supplier under this Agreement, Supplier warrants that: (a) all Services performed by Supplier will be performed in a professional and workmanlike manner, in accordance with any established professional standards for similar services, and with the best practices in Supplier's industry; (b) any reports, drawings, advice, formula, protocol and other products of such Services will comply with all applicable Law, and will be good and sufficient to enable Company to achieve the results therefor specified in the Agreement; and (c) none of such services, reports, drawings, advice, formula, protocol or other products of such Services, nor the use thereof by Company will infringe the proprietary rights of any third party.

8. **INSURANCE.** Supplier shall carry and maintain, at its expense, insurance in the amounts and types required under the Company's Supplier Insurance Requirements published on <https://pactivevergreen.com/supplier-insurance-requirements> which may be updated from time to time.

9. **INDEMNIFICATION.** Supplier shall hold harmless, indemnify and, if Company so opts, defend, Company, its subsidiaries and affiliates, and its and their respective directors, officers, managers, members, partners, shareholders, employees, contractors, insurers, agents, customers (both direct and indirect), successors and assignees, and other representatives

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(each, an "Indemnitee" and, collectively, the "Indemnitees") from and against any and all Claims (as defined below) threatened, suffered or incurred by any Indemnitee to the extent as the result of or arising from or in connection with: (a) Supplier's or any of its representatives' breach of this Agreement; (b) any bodily injury to or death of any person or damage to any property due to the act, omission or negligence of Supplier or any of its representatives or related in any way to the Products or Services or any activity of Supplier or any of its representatives in connection with this Agreement; (c) any violation of Law by Supplier or its representatives or the Products or Services; (d) any investigation or other proceeding by governmental authorities related to a facility where Products are manufactured, the Products (to the extent related to matters within Supplier's control) or Supplier's performance under this Agreement; (e) any actual or alleged trademark, trade dress, patent or copyright infringement or trade secret misappropriation related to the Products or Services; (f) any actual or alleged trademark, trade dress, patent or copyright infringement or trade secret misappropriation related to the Products; and (g) damages to Company's intellectual property as a result of Claims covered by (a) through (f) above, except for losses or Claims caused solely by the gross negligence or intentional misconduct of Company. "**Claims**" means any and all losses, liabilities, damages, punitive damages, obligations, expenses, fines, penalties, costs, claims, causes of action and judgments.

10. **CERTIFICATION.** Supplier hereby certifies that all Services or Products furnished under this Agreement shall have been performed or produced in compliance with all applicable requirements of Sections 6, 7 and 12 of the Fair Labor Standards Act of 1938, as amended, and of regulations and orders of the Administrator of the Wage and Hour Division issued under Section 14 thereof, and in accordance with all applicable state and federal laws and regulations governing general conditions for labor employed in the performance or production of such Services or Products.
11. **RECORDS.** For Products furnished under this Agreement, Supplier shall maintain and promptly furnish to Company complete and accurate manufacturing, processing, packaging, inspection, material safety data sheets, and quality control records that: (i) show the complete history of each grouping of Products, including lot numbers and manufacturing and delivery dates; (ii) facilitate easy identification and tracking of each lot, batch, unit production run and any other applicable grouping and (iii) include any other information reasonably requested by Company. Supplier shall make all such records and any other reports, evaluations, or other documents relating to the Products, the Services or Supplier's performance under this Agreement available for inspection with copies provided to Company or its authorized agents.
12. **FORCE MAJEURE.** In the event either Party is prevented from performing any obligation under this Agreement as a result of any governmental action, war, civil disturbance, riot, sabotage, embargo, natural disaster, pandemic, act of God, and not due to its negligence, then such party shall provide written notice within 48 hours of commencement of the Force Majeure event to the other party which notice shall describe the event and the effect thereof, including without limitation, the anticipated delay, if any, in any delivery of the Products or Services, and thereafter shall be excused from performing such obligation for so long as such condition exists. Further, Supplier shall: (a) use all efforts to limit the effect of that delay or non-performance on such other Party; and (b) continue to tender partial performance to the extent possible. In the event the delivery of the Products or Services is to be, or is, delayed beyond ten (10) calendar days, Company shall have the option upon written notice to Supplier of terminating this Agreement, or any orders hereunder and Supplier shall refund of all monies paid for any Products or Services not received by Company. Supplier acknowledges and agrees that the following will not excuse performance by Supplier (A) change in cost or availability of materials; (B) unprofitability of supplying the Products or performing the services; (C) any mechanical failure or breakdown of equipment; and/or (D) labor strikes or labor disruptions.
13. **APPLICABLE LAW.** This Agreement and any transaction based on it for the provision of Products or Services by Supplier to Company will be governed by the laws of the State of Illinois and the United States of America regardless of choice-of-law principles. Company and Supplier each submits to the exclusive jurisdiction of the state court in Lake County, Illinois and federal court for the United States District Court for the Northern District of Illinois, and appellate courts from each of them. Except as limited in this Agreement, Company or Supplier may exercise all rights and remedies available at law and in equity for a breach. **THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL NOT BE GOVERNED BY THE PROVISIONS OF THE 1980 U.N. CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS.**
14. **ENTIRE AGREEMENT.** This Agreement sets forth the entire agreement of the Parties with respect to the subject matter in this Agreement, and any and all prior agreements relating to the subject matter of this Agreement, whether oral or written, are superseded by this Agreement. In the event of a conflict between the provisions of these Terms and any Company Purchase Order, attachment, exhibit or schedule to this Agreement, or documents provided by Supplier, the order of precedence shall be as follows: (a) any specific language in the Purchase Order modifying these terms but not including conflicting terms in any Supplier document referenced in the Purchase Order (b) the provisions of these Terms; and (c) exhibits and schedules. Company expressly rejects any provisions not found within the four corners of this Agreement, including terms or conditions set forth in documents provided by Supplier. However, regardless of the proceeding sentence, to the extent that there is a current validly executed contract between Company and Supplier covering the Products or

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Services in the Purchase Order, that terms of that contract if conflicting shall prevail over the provisions of these Terms. If any provision of this Agreement is determined to be invalid for any reason, such invalid provision shall not affect the validity of any other provisions, which other provisions shall remain in force and effect as if this Agreement had been executed with the invalid provisions eliminated.

15. **REMEDIES NON-EXCLUSIVE AND CUMULATIVE.** No remedy made available to Company by any of the provisions of this Agreement is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and in addition to every other remedy available at law or equity.
16. **ASSIGNMENTS AND SUBCONTRACTING.** No part of the Agreement may be assigned or subcontracted without prior written approval of Company. This Agreement shall be binding upon each Party and its heirs, executors, administrators, successors or permitted assigns.
17. **WAIVER.** No change, modification or waiver of any term of this Agreement will be valid unless it is in writing and signed by an officer of Company and an officer or other authorized representative of Contractor. No failure by either Party to exercise any power given to it under this Agreement, or to insist upon strict compliance by the other Party of any obligation hereunder, and no custom or practice of the Parties at variance with the terms of this Agreement will constitute a waiver of the Party's right to demand exact compliance with the terms of this Agreement. **THE PARTIES ACKNOWLEDGE AND AGREE THAT ANY AND ALL DISPUTES BETWEEN THE PARTIES WOULD BE UNSUITABLE FOR TRIAL BY JURY. ACCORDINGLY, SUCH PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY AS TO ANY AND ALL DISPUTES BETWEEN THE PARTIES THAT MAY ARISE RELATING TO THE MATERIALS, THE PARTY'S BUSINESS RELATIONSHIP, THIS AGREEMENT, INCLUDING ANY EXHIBITS, SCHEDULES, ATTACHMENTS AND APPENDICES ATTACHED TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY. COMPANY WILL NOT BE LIABLE FOR ANY: (A) SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES; (B) LOSS OF REVENUES; (C) LOSS OF PROFITS; OR (D) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY, ARISING IN CONNECTION WITH THE AGREEMENT, IN EACH CASE, REGARDLESS OF THE FORM OF ACTION (AND WHETHER (B) THROUGH (D) ARE DIRECT, SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL), WHETHER IN CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE), BREACH OF STATUTORY DUTY, STRICT LIABILITY OR OTHER THEORY.**
18. **COMPANY DATA AND/OR SYSTEMS.** Access, if any, to any Company data (which shall be considered Company Confidential Information) and/or to or from any Company's computer system(s), hardware, software or other equipment ("Systems") is granted solely to allow Supplier to provide the Services and is limited to those specific Company Systems, time periods, and Supplier personnel as are separately designated in the applicable Ordering Document or otherwise by Company in writing. In connection with access to or from Company data and/or Systems, Supplier will comply with all applicable laws and to the extent applicable, Company's security and data privacy requirements and/or policies, which are available upon request (as may be revised by Company from time to time) and will not tamper with, compromise or circumvent any security or audit measures employed by Company. Supplier shall, and shall cause Supplier personnel to: (a) exercise reasonable care in using and storing the Systems; (b) not surrender possession of the Systems to any third party or permit any lien or encumbrance to be placed upon the Systems; (c) access the Systems solely for the applicable Services; (d) return the Systems to Company upon the earlier of Company's request or the termination or expiration of this Agreement or the applicable Ordering Document; and (e) assume all risk of use of or access from the Systems. Any access to Company data and/or to or from Systems is expressly prohibited except as otherwise permitted herein. Without limiting the foregoing, Supplier warrants that it has adequate security measures in place to comply with the above obligations and to ensure that access granted hereunder will not impair the integrity, confidentiality and availability of Company's data, Systems and the Services. Upon reasonable request, Company may audit Supplier to verify Supplier's compliance with these obligations.
19. **CODE OF CONDUCT.** Supplier shall at all times comply with the most recent version of the Supplier Code of Conduct located at <https://pactivevergreen.com/supplier-coc> which may be modified from time to time, and which is hereby incorporated into this Agreement.