

1. Definitions

- 1.1 "The Company" means Gelpack Excelsior Limited
 1.2 "The Buyer" means the person, firm or company to whom the goods are supplied subject to these conditions.
 1.3 "The Goods" means the item, goods or materials supplied or serviced (the reprocessing of goods supplied by the Buyer) subject to these conditions.
 1.4 "The Contract" means any agreement for the purchase of Goods by the Buyer from the Company.
 1.5 "The Price List" means the Trade Price List from time to time issued by the Company.
 1.6 The "Conditions" means the Company's Terms & Conditions of Sale

2. Existence of Contract

- 2.1 Any written quotation or estimate issued by the Company shall constitute an invitation to treat. No binding contract shall be created by the placing of an order by the Buyer unless and until the Company has accepted that order.
 These Conditions apply to all conditions including any terms or conditions which the Buyer may purport to apply under any purchase order or similar document. All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods pursuant to these Conditions. Acceptance of delivery of the Goods shall be deemed conclusive evidence of the Buyer's acceptance of these Conditions.
 2.2 No particulars contained in any advertising matter, catalogues or other publications supplied by the Company nor any verbal representation by an employee or agent of the Company shall form part of the Contract nor shall they be treated as constituting a representation on the part of the Company, save as stated in Clause 3.1.

3. Amendments and Cancellation

- 3.1 No alterations or modifications of these Conditions (including any special terms and conditions agreed by the parties) shall be binding on the Company unless agreed in writing by a director of the Company.
 3.2 The Contract may not be cancelled by the Buyer except with the written consent of the Company.

4. Prices

- 4.1 The VAT exclusive price stated overleaf is subject to alteration by the Company and the actual price to be paid for the Goods will be the Company's current price ruling at the date of despatch.
 4.2 Where the price has been endorsed "Fixed Price" such endorsement shall be void if the price of raw materials used by the Company in the manufacture of the Goods increase by an amount exceeding 5% in any period after the price was fixed.
 4.3 The total price charged for service work shall cover the total weight supplied for reprocessing; see Condition 6.5.

5. Settlement Terms

- 5.1 The price of the Goods shall be paid no later than 30 days from the date of delivery of the Goods. Time for payment shall be of the essence.
 5.2 In the event that the Buyer fails to make payment within the period of 10 days from the due date specified in the relevant Company invoice then without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:
 5.2.1 Cancel the contract or suspend any further supplies of the Goods to the Buyer;
 5.2.2 The immediate repayment of all the monies owed to the Company in respect of the Goods supplied to the Buyer, under this or any other contract;
 5.2.3 Charge the Buyer interest (both before and after any judgement) on the amount unpaid at the rate of 2% above Barclays Bank plc's Base Rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest);
 5.2.4 Charge the Buyer the cost of recovery of any outstanding amount including legal costs, disbursements and any bank charges incurred by the Company as a result of the Buyer's late payment.

6. Specification

- 6.1 Where goods have been ordered in accordance with a technical specification and acceptance criteria agreed to in writing by the Company, the Buyer may within 14 days of delivery and at his expense test the Goods at an establishment acceptable to the Company in accordance with such specifications and acceptance criteria.
 6.2 Should the Goods fail to meet the agreed acceptance criteria the Company may within 7 days of receiving written notification and documentary proof of such failure and at its expense request a full or partial retest.
 6.3 The results of such retest shall be binding upon both parties.
 6.4 Previous supplies of goods of the same description shall not be considered to constitute samples of subsequent deliveries.
 6.5 Where the Company agrees to undertake service work, the Buyer is deemed to accept that up to 10%, by weight, of the goods supplied for reprocessing may be lost during the reprocessing.
 6.6 Width and length are expressed in mm with a tolerance of $\pm 3\%$.
 Weight per metre is as stated in the Order Acknowledgement issued by the Company with a minimum average tolerance of -10%.
 Thickness expressed in microns or gauge is only an indicative reference.
 6.7 Because Biodegradable products degrade at rates dependent upon environmental conditions, the company cannot offer warranties or guarantees regarding the speed or degree of degradation.
 6.8 All Film supplied is unsuitable for Contact with Food having a pH equal to or less than 4.5, unless otherwise clearly stated in the Order Acknowledgement.

7. Despatch and Delivery

- 7.1 Goods will be supplied carriage paid by the Company and delivery of the Goods shall take place at the Buyer's premises as indicated in the Buyer's order.
 7.2 Times and dates quoted by the Company for delivery of Goods are intended as estimates only and time of delivery is not of the essence of the Contract. Notwithstanding that the Company may have delayed or failed to deliver the Goods promptly the Buyer shall be bound to accept delivery and to pay for the Goods in full.
 7.3 The Company shall not be liable in any way for any direct or indirect loss, damage or expense (including loss of profits and liability to third parties) suffered or incurred by the Buyer as a consequence of any delay in delivery.
 7.4 The Company reserves the right to deliver up to 10% over or under the quantity stated in the Buyer's original order for the Goods and such variation shall be priced in accordance with Condition 4.
 7.5 Where specific quantities are stated on the outer packaging these shall be for guidance only.
 7.6 Provided that the actual quantity delivered in each consignment is within 1% of that stated in the delivery note the delivery shall not be rejected by the Buyer.
 7.7 The Company reserves the right to deliver the Goods by instalments in any sequence and to tender a separate invoice in respect of each instalment. No default or failure by the Company in respect of any one or more instalments shall entitle the Buyer to treat the Contract as repudiated or to damages.
 7.8 If the Buyer requests a delay in delivery of the Goods of more than 14 days beyond the originally agreed delivery date the Company shall be entitled to arrange storage either at its own premises or elsewhere on the Buyer's behalf and at the Buyer's risk and expense. The Goods shall be invoiced on the day on which they are put into storage and such Goods shall thereupon be deemed to have been delivered

8. Force Majeure

- 8.1 The Company shall not be liable for failure to deliver the Goods for any reason whatsoever outside the reasonable control of the Company including, without limitation to the generality of the foregoing, industrial action, war, governmental action or regulation, act of God, riots or non-availability of stocks or materials. Any such failure shall not affect the obligation of the Buyer to pay for Goods already delivered.

9. Property and Risk

- 9.1 Risk in the Goods shall pass to the Buyer on delivery.
 9.2 Property and ownership in the goods shall, notwithstanding delivery of the Goods to the Buyer, not pass from the Company until the Buyer shall have paid the Company in full

therefore pursuant to Condition 5 and no other sums are then outstanding from the Buyer to the Company on any account whether or not such sums have become due for payment.
 9.3 The Buyer shall, while property in the Goods remains with the Company pursuant to this Condition 9, hold the Goods on a fiduciary basis only and as bailee only for the Company. The Buyer shall store the Goods separately from its own goods or those of any other person in good condition and marked in such a way that they are clearly identifiable as the property of the Company and shall insure the Goods to their full value against "All Risks" to the reasonable satisfaction of the Company.

9.4 In the event that the Company is entitled to exercise any of its rights under Condition 12, any right of the Buyer to sell, dispose of, deal or in any way use Goods in which Property remains vested in the Company shall cease forthwith. The Buyer shall immediately place any of the Goods in its possession or under its control at the disposal of the Company and the Company shall (without prejudice to any of its other rights and remedies) have the right to repossess and use such Goods and may by itself, its servants or agents enter upon any land or building, vehicle or vessel or other place upon which such Goods are reasonably thought to be situated for the purpose of removing any such Goods.

9.5 The Company shall be entitled to recover the price (+VAT) of the Goods notwithstanding that property on any such Goods has not passed from the Company.

9.6 The Buyer shall not pledge, or in any way charge by way of security for any indebtedness any of the Goods which are the property of the Company. Without prejudice to the other rights of the Company, if the Buyer does so all sums whatever owing by the Buyer to the Company shall forthwith become due and payable.

10. Claims for Defects, Damage, Loss or Non-Delivery

- 10.1 The Buyer shall, without prejudice to any right he may have pursuant to Condition 6, inspect the Goods on delivery and shall within 7 days thereof notify the Company of any alleged defects, shortage in quantity or damage.
 10.2 In the event of a claim the Buyer shall give the Company an opportunity to inspect the Goods within a reasonable time following notice of the claim during which time no use shall be made of any part of the consignment covered by the claim.
 10.3 The Buyer shall notify the Company of any non-delivery of a whole consignment within seven days of the date by which the goods were expected to have been delivered. Notwithstanding the receipt by the Company of any such notice, a clear signature on a carrier's delivery advice sheet shall be deemed to signify receipt of the quantity indicated thereon.
 10.4 If the Buyer shall fail to comply with the foregoing, the Goods shall be conclusively presumed to be in accordance with the Contract and free from any defect or damage which would be apparent on a reasonable examination of the Goods and the Buyer shall be deemed to have accepted the Goods. If the Buyer establishes to the Company's reasonable satisfaction that the goods are not in accordance with the Contract or are defective, the Buyer's sole remedy in respect thereof shall be limited, as the Company may elect, to making good any shortage, to replacing such Goods or refunding all, or part of, the Contract price against return of the Goods. For the avoidance of doubt, the Company shall be under no liability whatsoever to the Buyer for any loss and/or expense (including loss of profit) suffered by the Buyer arising out of a breach by the Company of this contract.
 10.5 The Company's liability to the Buyer whether for any breach of the Contract or otherwise shall not in any event exceed the Contract price and the Company shall be under no liability for any consequential or indirect loss suffered, or liability to third parties incurred, by the Buyer.
 10.6 Subject to the provisions of this Condition 10, all terms, conditions and warranties (whether implied or made expressly) whether by the Company or its servants, employees, agents or otherwise, relating to the quality and/ or fitness for the purpose of the Goods or any of the Goods are excluded and then PROVIDED THAT nothing herein shall restrict or exclude liability for death or personal injury caused by the negligence of the Company or affect the statutory rights of a Buyer dealing as customer (as defined in Section 12 of the Unfair Contract Terms Act 1977).

11. Return of Goods

- 11.1 Subject to Condition 9 above, no Goods delivered in accordance with the Contract will be accepted for return without the prior written approval of the Company, in accordance with the Company's official returns authorisation procedure, and on terms to be determined at the absolute discretion of the Company.
 11.2 If the Company agrees to accept such Goods for return, a handling charge of 10% of the invoice price will be made. Such Goods must be returned carriage-paid to the Company in their original packaging.
 11.3 Goods returned without the prior written approval of the Company may at the Company's absolute discretion be returned to the Buyer or returned at the Buyer's cost without prejudice to any rights or remedies the Company may have.

12. Default by the Buyer

- 12.1 If the Buyer fails to make payment for the Goods in accordance with Condition 5 or otherwise commits a breach of the Contract, or if any distress or execution shall be levied upon any of the Buyer's goods or if the Buyer offers to make any arrangement with its creditors or commits an act of bankruptcy or if any petition in bankruptcy be presented against the Buyer or the Buyer is unable to pay its debts as they fall due or if being a limited company any resolution or petition to wind up the Buyer (other than for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented or if a receiver, administrator, administrative receiver or manager shall be appointed over the whole or any part of the Buyer's business or if the Buyer shall suffer any analogous proceedings under foreign law, all sums outstanding in respect of Goods shall become payable immediately. The Company may in its absolute discretion and without prejudice to any other rights which it may have:
 12.1.1 suspend all future deliveries of Goods to the Buyer and/or terminate the Contract without liability upon its part; and/or
 12.1.2 exercise any of its rights pursuant to Condition 5.2 or 9.4

13. Set-Off and Counterclaim

- 13.1 The Buyer shall not be entitled to withhold payment of any invoice by reason of any right of set-off or counterclaim which the Buyer may have or allege to have or for any other reason whatsoever.

14. Trademarks

- 14.1 Unless otherwise agreed in writing all Goods shall, if sold packaged, be sold or re-sold only in the packaging supplied by the Company and in no case may any trade mark other than those applied by the Company be marked on or applied in relation to the Goods.

15. Law and Jurisdiction

- 15.1 These Conditions and the Contract shall be governed by the exclusive jurisdiction of the law of England and Wales and any dispute hereunder shall be subject to the exclusive jurisdiction of the English courts.

16. Notices

- 16.1 Any notice required to be served pursuant to these Conditions shall be in writing and served by first class post or by hand on the Company at Grandstand Road, Hereford HR4 9NT, or such other address as the Company may from time to time notify to the Buyer and on the Buyer at the address notified to the Company or in default of notification to the address from which the Goods were ordered or if the Buyer is a company at the option of the Company at the Buyer's registered office. A properly addressed notice sent by first class post shall be deemed to have been received two days after the date of its despatch.

17. Severance

- 17.1 Any provision or term of these Conditions which is or may be unenforceable shall to the extent of such invalidity or unenforceability be deemed severable and shall not affect any other provision hereof.

18. Waiver

- 18.1 No waiver or forbearance by the Company, whether express or implied, in enforcing any of its rights hereunder shall prejudice its right to do so in the future.

19. Set-Off and Counterclaim

- 19.1 The Buyer may not assign, subcontract or in any way dispose of its rights or obligations under the Contract without the prior written consent of the Company.