

ACQUISITION BY SONOCO PRODUCTS COMPANY, INC OF CAN PACKAGING SAS

Initial Enforcement Order made by the Competition and Markets Authority pursuant to section 72(2) of the Enterprise Act 2002 (the Act)

Whereas:

- (a) the Competition and Markets Authority (CMA) has reasonable grounds for suspecting that it is or may be the case that (i) Sonoco Products Company, Inc, via its subsidiaries Sonoco Holdings SAS, Sonoco Development, Inc and SPC Resources, Inc (together, **Sonoco**) and (ii) Can Packaging SAS have ceased to be distinct;
- (b) the CMA is considering, pursuant to section 22 of the Act, whether it is or may be the case that a relevant merger situation has been created and whether the creation of that situation has resulted or may be expected to result in a substantial lessening of competition in any market or markets in the United Kingdom (UK);
- (c) the CMA wishes to ensure that no action is taken pending final determination of any reference under section 22 of the Act which might prejudice that reference or impede the taking of any action by the CMA under Part 3 of the Act which might be justified by the CMA's decisions on the reference; and
- (d) the circumstances set out in section 72(6) of the Act do not apply and the reference has not been finally determined in accordance with section 79(1) of the Act.

Now for the purposes of preventing pre-emptive action in accordance with section 72(2) of the Act the CMA makes the following order addressed to Sonoco (**Order**).

Commencement, application and scope

1. This Order commences on the commencement date: 9 September 2020.
2. This Order applies to Sonoco.

3. Notwithstanding any other provision of this Order, no act or omission shall constitute a breach of this Order, and nothing in this Order shall oblige Sonoco to reverse any act or omission, in each case to the extent that it occurred or was completed prior to the commencement date.

Management of the Sonoco and Can Packaging businesses until determination of proceedings

4. Except with the prior written consent of the CMA, Sonoco shall not, during the specified period, take any action which might prejudice a reference of the transaction under section 22 of the Act or impede the taking of any action under the Act by the CMA which may be justified by the CMA's decisions on such a reference, including any action which might:
 - (a) lead to the integration of the Can Packaging business with the Sonoco business;
 - (b) transfer the ownership or control of the Sonoco business or the Can Packaging business or any of their subsidiaries; or
 - (c) otherwise impair the ability of the Can Packaging business or the Sonoco business to compete independently in any of the markets affected by the transaction.
5. Further and without prejudice to the generality of paragraph 4 and subject to paragraph 4, Sonoco shall at all times during the specified period procure that, except with the prior written consent of the CMA:
 - (a) the Can Packaging business is carried on separately from the Sonoco business and the Can Packaging business's separate sales or brand identity is maintained;
 - (b) the Can Packaging business and the Sonoco business are maintained as a going concern and sufficient resources are made available for the development of the Can Packaging business and the Sonoco business, on the basis of their respective pre-merger business plans;
 - (c) except in the ordinary course of business, no substantive changes are made to the organisational structure of, or the management responsibilities within, the Can Packaging business or the Sonoco business;
 - (d) the nature, description, range and quality of goods and/or services supplied in the UK by each of the two businesses are maintained and preserved;

- (e) except in the ordinary course of business for the separate operation of the two businesses:
 - (i) all of the assets of the Can Packaging business and the Sonoco business are maintained and preserved, including facilities and goodwill;
 - (ii) none of the assets of the Can Packaging business or the Sonoco business are disposed of; and
 - (iii) no interest in the assets of the Can Packaging business or the Sonoco business is created or disposed of;
- (f) there is no integration of the information technology of the Can Packaging or Sonoco businesses, and the software and hardware platforms of the Can Packaging business shall remain essentially unchanged, except for routine changes and maintenance;
- (g) the customer and supplier lists of the two businesses shall be operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the Can Packaging business will be carried out by the Can Packaging business alone and for the avoidance of doubt the Sonoco business will not negotiate on behalf of the Can Packaging business (and vice versa) or enter into any joint agreements with the Can Packaging business (and vice versa);
- (h) all existing contracts of the Can Packaging business and the Sonoco business continue to be serviced by the business to which they were awarded;
- (i) no changes are made to key staff of the Can Packaging business or the Sonoco business;
- (j) no key staff are transferred between the Can Packaging business and the Sonoco business;
- (k) all reasonable steps are taken to encourage all key staff to remain with the Can Packaging business and the Sonoco business; and
- (l) no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two businesses shall pass, directly or indirectly, from the Can Packaging business (or any of its employees, directors, agents or affiliates) to the Sonoco business (or any of its employees, directors, agents or affiliates), or vice versa, except

where strictly necessary in the ordinary course of business (including, for example, where required for compliance with external regulatory and/or accounting obligations or for due diligence, integration planning or the completion of any merger control proceedings relating to the transaction) and on the basis that, should the transaction be prohibited, any records or copies (electronic or otherwise) of such information that have passed, wherever they may be held, will be returned to the business to which they relate and any copies destroyed.

Compliance

6. Sonoco shall procure that each of its subsidiaries complies with this Order as if the Order had been issued to each of them.
7. Sonoco shall provide to the CMA such information or statement of compliance as it may from time to time require for the purposes of monitoring compliance by Sonoco and its subsidiaries with this Order. In particular, on 23 September 2020 and subsequently every two weeks (or, where this does not fall on a working day, the first working day thereafter), the Chief Executive Officer of Sonoco or other persons of Sonoco as agreed with the CMA shall, on behalf of Sonoco provide a statement to the CMA in the form set out in Annex A to this Order, confirming compliance with this Order.
8. Sonoco shall also ensure that, on 23 September 2020 and subsequently every two weeks (or, where this does not fall on a working day, the first working day thereafter), the person responsible for the management of Can Packaging or other persons of Can Packaging as agreed with the CMA shall, on behalf of Can Packaging, provide a statement to the CMA in the form set out in Annex B to this Order, confirming compliance with this Order.
9. At all times, Sonoco shall, or shall procure that Can Packaging shall, actively keep the CMA informed of any material developments relating to the Can Packaging business or the Sonoco business, which includes but is not limited to:
 - (a) details of key staff who leave or join the Can Packaging business or the Sonoco business;
 - (b) any interruption of the Can Packaging or Sonoco business (including without limitation its procurement, production, logistics, sales and employee relations arrangements) that has prevented it from operating in the ordinary course of business for more than 24 hours;

- (c) all substantial customer volumes won or lost or substantial changes to the customer contracts for the Can Packaging or Sonoco business including any substantial changes in customers' demand; and
 - (d) substantial changes in the Can Packaging or Sonoco business's contractual arrangements or relationships with key suppliers.
10. If Sonoco has any reason to suspect that this Order might have been breached it shall immediately notify the CMA and any monitoring trustee that Sonoco may be directed to appoint under paragraph 13.
 11. The CMA may give directions to a specified person or to a holder of a specified office in any body of persons (corporate or unincorporated) to take specified steps for the purpose of carrying out, or ensuring compliance with, this Order, or do or refrain from doing any specified action in order to ensure compliance with the Order. The CMA may vary or revoke any directions so given.
 12. Sonoco shall comply in so far as it is able with such directions as the CMA may from time to time give to take such steps as may be specified or described in the directions for the purpose of carrying out or securing compliance with this Order.

Interpretation

13. The Interpretation Act 1978 shall apply to this Order as it does to Acts of Parliament.
14. For the purposes of this Order:

'the Act' means the Enterprise Act 2002;

'an affiliate' of a person is another person who satisfies the following condition, namely that any enterprise (which, in this context, has the meaning given in section 129(1) of the Act) that the first person carries on from time to time and any enterprise that the second person carries on from time to time would be regarded as being under common control for the purposes of section 26 of the Act;

'business' has the meaning given by section 129(1) and (3) of the Act;

'Can Packaging' means Can Packaging SAS, a a French simplified joint-stock company (société par actions simplifiée), with a share capital of 100,000 euros, having its registered office at 9 bis, rue Saint-Marc - 68400 Riedisheim, and registered with the Trade and Companies Registry of Mulhouse under

number 351 512 223. It also includes other entities and assets that were the subject of the transaction. These include:

- SAS du Lagon (**'SAS du Lagon'**), a French simplified joint-stock company, with a share capital of 15,244.90 euros, having its registered office at 9bis, rue Saint-Marc - 68400 Riedisheim, and registered with the Trade and Companies Registry of Mulhouse under number 419 953 534;
- SCI Lagon Ouest (**'SCI Lagon Ouest'**), a French real estate investment company (société civile immobilière), with a share capital of 1,000 euros, having its registered office at 9bis, rue Saint-Marc - 68400 Riedisheim, and registered with the Trade and Companies Registry of Mulhouse under number 513 687 962;
- Ateliers de Mécanique Générale de Huningue (**'AMGH'**), a French limited liability company (société à responsabilité limitée) with a share capital of 36,000 euros, having its registered office at 9 B, rue Saint-Marc - 68400 Riedisheim, and registered with the Trade and Companies Registry of Mulhouse under number 318 474 749;
- The copyrights, patents, know-how and trademarks (together, **the IP rights**) assigned by George Sireix and Guillaume Sireix to SPC Resources, Inc and Sonoco Development, Inc under separate Assignemnt Agreements as part of the transaction.

'the Can Packaging business' means the business of Can Packaging and its subsidiaries, carried on as at the commencement date;

'commencement date' means 9 September 2020;

'control' includes the ability directly or indirectly to control or materially to influence the policy of a body corporate or the policy of any person in carrying on an enterprise;

'the decisions' means the decisions of the CMA on the questions which it is required to answer by virtue of section 35 of the Act;

'key staff' means staff in positions of executive or managerial responsibility and/or whose performance affects the viability of the business;

'the ordinary course of business' means matters connected to the day-to-day supply of goods and/or services by Can Packaging or Sonoco and does not include matters involving significant changes to the organisational structure or related to the post-merger integration of Can Packaging and Sonoco;

'Sonoco' means Sonoco Products Company, Inc, and all its subsidiaries, including but not limited to Sonoco Holdings SAS, Sonoco Development, Inc, and SPC Resources, Inc;

'the Sonoco business' means the business of Sonoco and its subsidiaries but excluding the Can Packaging business, carried on as at the time of completion;

'Sonoco Development, Inc.' means Sonoco Development, Inc, a company construed under the laws of South Carolina, registered with Taxation number EIN 57-1075383 and whose registered office is located at 540 N. 2nd St, Hartsville, SC 29550, USA;

'Sonoco Holdings SAS' means Sonoco Holdings SAS, a simplified joint-stock company (société par actions simplifiée), whose registered office is located at 5, rue de la Gare - 67590 Schweighouse; and registered with the Trade and Companies Registry of Strasbourg under the number 379 133 408;

'Sonoco Products Company, Inc' means Sonoco Products Company, Inc, the ultimate parent company of the Sonoco group of companies, located at 1 N. 2nd Street, Hartsville, South Carolina, United States of America (**USA**), post code 29550; and all its subsidiaries;

'SPC Resources, Inc.' means SPC resources Inc, a company construed under the laws of South Carolina, registered with Taxation number EIN 51-0337676; and whose registered office is located at 540 N. 2nd St, Hartsville, SC 29550, USA;

'specified period' means the period beginning on the commencement date and terminating in accordance with section 72(6) of the Act;

'subsidiary', unless otherwise stated, has the meaning given by section 1159 of the Companies Act 2006;

'the transaction' means the transaction by which Sonoco Products Company, Inc and Can Packaging have ceased to be distinct within the meaning of section 23 of the Act;

'the two businesses' means the Sonoco business and the Can Packaging business;

unless the context requires otherwise, the singular shall include the plural and vice versa.

Raul Nieto, Assistant Director, Mergers

Compliance statement for Sonoco

I [insert name] confirm on behalf of Sonoco that:

Compliance in the Relevant Period

1. In the period from [insert date] to [insert date] (the Relevant Period):
 - (a) Sonoco has complied with the Order made by the CMA in relation to the transaction on 9 September 2020 (the Order).
 - (b) Sonoco subsidiaries have also complied with this Order.
2. Subject to paragraph 3 of the Order, and except with the prior written consent of the CMA:
 - (a) No action has been taken by Sonoco that might prejudice a reference of the transaction under section 22 of the Act or impede the taking of any action by the CMA which may be justified by its decision on such a reference, including any action which might:
 - (i) lead to the integration of the Can Packaging business with the Sonoco business;
 - (ii) transfer the ownership or control of the Sonoco business or the Can Packaging business or any of their subsidiaries; or
 - (iii) otherwise impair the ability of the Can Packaging business or the Sonoco business to compete independently in any of the markets affected by the transaction.
 - (b) The Can Packaging business has been carried on separately from the Sonoco business and the Can Packaging business's separate sales or brand identity has been maintained.
 - (c) The Can Packaging business and the Sonoco business have been maintained as a going concern and sufficient resources have been made available for the development of the Can Packaging business and the Sonoco business, on the basis of their respective pre-merger business plans.
 - (d) No substantive changes have been made to the organisational structure of, or the management responsibilities within, the Can Packaging

business or the Sonoco business, except in the ordinary course of business.

- (e) The nature, description, range and quality of goods and/or services supplied in the UK by the Can Packaging business and the Sonoco business have been maintained and preserved.
- (f) Except in the ordinary course of business for the separate operation of the two businesses:
 - (i) all of the assets of the Can Packaging business and the Sonoco business, including facilities and goodwill, have been maintained and preserved as at the start of the Relevant Period;
 - (ii) none of the assets of the Can Packaging business or the Sonoco business have been disposed of; and
 - (iii) no interest in the assets of the Can Packaging business or the Sonoco business has been created or disposed of.
- (g) There has been no integration of the information technology of the Can Packaging or Sonoco businesses, and the software and hardware platforms of the Can Packaging business have remained essentially unchanged, except for routine changes and maintenance.
- (h) Subject to integration which had occurred prior to the commencement date, the customer and supplier lists of the two businesses have been operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the Can Packaging business have been carried out by the Can Packaging business alone and, for the avoidance of doubt, the Sonoco business has not negotiated on behalf of the Can Packaging business (and vice versa) or entered into any joint agreements with the Can Packaging business (and vice versa).
- (i) All existing contracts of the Can Packaging business and the Sonoco business have been serviced by the business to which they were awarded, except to the extent novated, assigned or subcontracted prior to the commencement date.
- (j) No changes have been made to key staff of the Can Packaging business or the Sonoco business.
- (k) No key staff have been transferred between the Can Packaging business and the Sonoco business.

- (l) All reasonable steps have been taken to encourage all key staff to remain with the Can Packaging business and the Sonoco business.
- (m) Except as permitted by the Order, no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the two businesses, has passed, directly or indirectly, from the Can Packaging business (or any of its employees, directors, agents or affiliates) to the Sonoco business (or any of its employees, directors, agents or affiliates), or vice versa.
- (n) Except as listed in paragraph (o) below, there have been no:
 - (i) key staff that have left or joined the Can Packaging business or the Sonoco business;
 - (ii) interruptions of the Can Packaging business or the Sonoco business (including without limitation procurement, production, logistics, sales and employee relations arrangements) that have prevented it from operating in the ordinary course of business for more than 24 hours;
 - (iii) substantial customer volumes won or lost or substantial changes to the customer contracts for the Can Packaging business or the Sonoco business; or
 - (iv) substantial changes in the Can Packaging or Sonoco business's contractual arrangements or relationships with key suppliers.

(o) *[list of material developments]*

3. Sonoco and its subsidiaries remain in full compliance with the Order and will, or will procure that Can Packaging, continue actively to keep the CMA informed of any material developments relating to the Can Packaging or the Sonoco business in accordance with paragraph 7 of the Order.

Interpretation

4. Terms defined in the Order have the same meaning in this compliance statement.

I understand that:

5. It is a criminal offence under section 117 of the Enterprise Act 2002 for a person recklessly or knowingly to supply to the CMA information which is false or misleading in any material respect. Breach of this provision can result in **fines, imprisonment for a term not exceeding two years, or**

both. (Section 117 of the Enterprise Act 2002.)

6. Failure to comply with this order without reasonable excuse may result in the CMA imposing a **penalty of up to 5% of the total value of the turnover** (both in and outside the United Kingdom) of the enterprises owned or controlled by the person on whom the penalty is imposed. (Section 94A of the Enterprise Act 2002.)

FOR AND ON BEHALF OF SONOCO

Signature

Name

Title

Date

Compliance statement for Can Packaging

I [insert name] confirm on behalf of Can Packaging that:

Compliance in the Relevant Period

1. In the period from [insert date] to [insert date] (the Relevant Period):
 - (a) Can Packaging has complied with the Order made by the CMA in relation to the transaction on 9 September 2020 (the Order).
 - (b) Can Packaging subsidiaries have also complied with this Order.
2. Subject to paragraph 3 of the Order, and except with the prior written consent of the CMA:
 - (a) No action has been taken by Can Packaging that might prejudice a reference of the transaction under section 22 of the Act or impede the taking of any action by the CMA which may be justified by its decision on such a reference, including any action which might:
 - (i) lead to the integration of the Can Packaging business with the Sonoco business;
 - (ii) transfer the ownership or control of the Sonoco business or the Can Packaging business or any of their subsidiaries; or
 - (iii) otherwise impair the ability of the Can Packaging business or the Sonoco business to compete independently in any of the markets affected by the transaction.
 - (b) The Can Packaging business has been carried on separately from the Sonoco business and the Can Packaging business's separate sales or brand identity has been maintained.
 - (c) The Can Packaging business has been maintained as a going concern and sufficient resources have been made available for the development of the Can Packaging business, on the basis of their respective pre-merger business plans.
 - (d) No substantive changes have been made to the organisational structure of, or the management responsibilities within, the Can Packaging business, except in the ordinary course of business.

- (e) The nature, description, range and quality of goods and/or services supplied in the UK by the Can Packaging business have been maintained and preserved.
- (f) Except in the ordinary course of business for the separate operation of the two businesses:
 - (i) all of the assets of the Can Packaging business, including facilities and goodwill, have been maintained and preserved as at the start of the Relevant Period;
 - (ii) none of the assets of the Can Packaging business have been disposed of; and
 - (iii) no interest in the assets of the Can Packaging business has been created or disposed of.
- (g) There has been no integration of the information technology of the Can Packaging business, and the software and hardware platforms of the Can Packaging business have remained essentially unchanged, except for routine changes and maintenance.
- (h) Subject to integration which had occurred prior to the commencement date, the customer and supplier lists of the two businesses have been operated and updated separately and any negotiations with any existing or potential customers and suppliers in relation to the Can Packaging business have been carried out by the Can Packaging business alone and, for the avoidance of doubt, the Sonoco business has not negotiated on behalf of the Can Packaging business (and vice versa) or entered into any joint agreements with the Can Packaging business (and vice versa).
- (i) All existing contracts of the Can Packaging business have been serviced by the business to which they were awarded, except to the extent novated, assigned or subcontracted prior to the commencement date.
- (j) No changes have been made to key staff of the Can Packaging business.
- (k) No key staff have been transferred between the Can Packaging business and the Sonoco business.
- (l) All reasonable steps have been taken to encourage all key staff to remain with the Can Packaging business.
- (m) Except as permitted by the Order, no business secrets, know-how, commercially-sensitive information, intellectual property or any other information of a confidential or proprietary nature relating to either of the

two businesses, has passed, directly or indirectly, from the Can Packaging business (or any of its employees, directors, agents or affiliates) to the Sonoco business (or any of its employees, directors, agents or affiliates), or vice versa.

- (n) Except as listed in paragraph (o) below, there have been no:
- (i) key staff that have left or joined the Can Packaging business;
 - (ii) interruptions of the Can Packaging business (including without limitation procurement, production, logistics, sales and employee relations arrangements) that have prevented it from operating in the ordinary course of business for more than 24 hours;
 - (iii) substantial customer volumes won or lost or substantial changes to the customer contracts for the Can Packaging business; or
 - (iv) substantial changes in the Can Packaging business's contractual arrangements or relationships with key suppliers.

(o) [list of material developments]

3. Can Packaging and its subsidiaries remain in full compliance with the Order and will continue actively to keep the CMA informed of any material developments relating to the Can Packaging business in accordance with paragraph 7 of the Order.

Interpretation

4. Terms defined in the Order have the same meaning in this compliance statement.

I understand that:

5. It is a criminal offence under section 117 of the Enterprise Act 2002 for a person recklessly or knowingly to supply to the CMA information which is false or misleading in any material respect. Breach of this provision can result in **fining, imprisonment for a term not exceeding two years, or both**. (Section 117 of the Enterprise Act 2002.)
6. Failure to comply with this order without reasonable excuse may result in the CMA imposing a **penalty of up to 5% of the total value of the turnover** (both in and outside the United Kingdom) of the enterprises owned or controlled by the person on whom the penalty is imposed. (Section 94A of the Enterprise Act 2002.)

FOR AND ON BEHALF OF CAN PACKAGING

Signature

Name

Title

Date