**EXCLUSIVE MERCHANT EXPORTER AGREEMENT**

This Exclusive Merchant Exporter Agreement is made at Chennai this the 15th day of January’2024 (**“Agreement”**).

**BETWEEN**

**……………………….**  ……………………………………. (hereinafter referred to as **"Manufacturing Partner**”) which expression shall unless repugnant to the context and meaning include his heirs, successors-in-office, administrators, assignees, legal representatives of the “**ONE PART**”.

**AND**

**M/S.** **KOTHARI INDUSTRIAL CORPORATION LIMITED**, a Company registered under Companies Act, 1956 having Registered Office and Factory address at Kothari Building No-114, Nungambakkam High Road, Nungambakkam, Chennai 600034, Tamil Nadu, India, represented by its Chairman/Managing Director Dr. Mr. RAFIQ AHMED, (hereinafter referred to as “**Merchant Exporter**”) which expression shall unless repugnant to the context and meaning include his heirs, successors-in-office, administrators, assignees, legal representatives of the “**OTHER PART**;

The Party of the First Part and Party of the Other Part herein individually referred to as “Party” and collectively referred to as “PARTIES”.

Whereas the Manufacturing Partner intent to collaborate with Exporter as its Sole and Exclusive Merchant Exporter for exporting the footwear under the brand name “ALDO” as per PO terms and conditions whereas the Manufacturing partner is engaged in manufacturing of footwear under the brand name “ALDO” as per PO terms and conditions for Exporter and whereas the Merchant Exporter is desirous of acting as a sole and exclusive Merchant Exporter for exporting the “ALDO FOOTWEAR” as per PO terms and conditions. In furtherance of the economic and business interests of the parties herein and in consideration of the promises and mutual covenants to be faithfully performed as herein contained, it is hereby agreed as follows;

**Now this Agreement Witnesseth as follows;**

1.**Appointment**

That the Manufacturing Partner herein collaborates with the Exporter as the Sole and Exclusive Merchant Exporter for exporting the footwear under the brand name “ALDO” as per PO terms and conditions. The Merchant Exporter hereby agrees and accepts the appointment and the Manufacturing Partner acknowledges the appointment and agrees to comply with all provisions of ALDO’s terms and conditions of purchase available here :

<https://aldogroup.app.box.com/s/5p8mvuz0xhjkt6ie8fno/folder/150019065901>

2. The Parties herein agree that the term of this Agreement shall be THREE years, commencing from the effective date as mentioned above.

3**. Services, Terms and Conditions of Agreement:**

The Manufacturing Partner herein agrees to sell ALDO products in INR to Merchant Exporter as per price agreement and PO terms and conditions as agreed as follows.

a). It is agreed that all merchandise shall be permanently marked in accordance with Customs export regulations. The orders shall comply with the standards stipulated in Aldo Supplier Partnership Manual. On acceptance of official purchase order, the Manufacturing Partner shall acknowledge the receipt of the same agrees to comply with all the provisions of Aldo terms and conditions of purchase as in ;

<https://aldogroup.app.box.com/s/5p8mvuz0xhjkt6ie8fno/folder/150019065901>

b). It is hereby agreed by the Manufacturing partner that it shall not directly contact Aldo. All communications related to prices and any other business communications shall be done only through the Merchant Exporter. Further, the manufacturing partner shall not directly have a business relationship with Aldo for any of the direct business requirement and with regard to the products under export. In case of breach of the conditions, the Merchant Exporter has the right to claim 4% commission for next two years based on actual sales during those two years.

c). that the Manufacturing Partner herein agrees and undertakes that the product quality shall be in strict adherence to the standards stipulated for this purpose and further undertakes it is solely and exclusively responsible for any manufacturing defects and the charge backs relevant to the manufacturing defects. The Merchant Exporter shall undertake only the review based on the Accepted quality level.

d). That the Manufacturing Partner herein agrees to comply with the “On time delivery policy” of ALDO.

e). All costs and expenses which are incurred in relation to the export of products i.e, from factory to the designated point of export shall be borne by the Manufacturing Partner. The transportation to the designated point in Chennai shall be done at the discretion of the Merchant Exporter as an FOB contractor and in accordance with the schedule and suitability of various modes of transport viz , road, rail and air.

f). The payment to the Manufacturing Partner shall be made in accordance with the PO terms and conditions and in concurrence with the Price Agreement made with the Merchant Exporter.

g). The parties herein agree to maintain the confidentiality with respect to all non-public information received from the other party including but not limited to trade secrets, business plans, and customer lists during the course of providing services under this Agreement.

h). The Manufacturing Partner herein acknowledges and confirms that
all the information with regard to the intellectual property rights with regard to materials and merchandise of ALDO as provided by the Merchant Exporter shall be exclusive to ALDO and shall not be used or disclosed to any third party or for any other purpose other than that of the purpose of this agreement. The Manufacturing Partner agrees to comply with the ALDO TERMS AND CONDITIONS OF PURCHASE during the subsistence or on termination of this agreement.

**‍4.** **Exclusivity:** a. During the term of this Agreement, the Products under the brand name “ALDO” shall not be sold by the Manufacturing Partner through any other Exporter nor any other sales channel but only through the Merchant Exporter herein. It is made clear that this exclusivity shall be confined to products made for ALDO with their brand name and has no bearing in respect of Manufacture, Sale, Distribution etc. of other goods to various third parties by the Manufacturing Partner. The Manufacturing Partner agrees that all communication shall be made through the Merchant Exporter only.

**5. Absolute Rights:** The Merchant Exporter shall have absolute rights to export and sell the Products made by the Manufacturing Partner under the brand name “ALDO”. No other party shall have the right to deal, sell or negotiate for the purpose of exporting the products of the Manufacturing Partner in any of the ways which affects the exclusive rights of the Merchant Exporter.

**6.Lien on goods**

The Manufacturing Partner shall have lien over the goods or the value thereof and /or any other goods/stocks and other materials which are in possession with the Merchant Exporter till the receipt of payment by the Manufacturing Partner for the goods exported.

**7. Relationship:**

It is understood that both Parties hereto are independent contractors and engage in the operation of their own respective businesses. Neither Party hereto is to be considered the agent of the other Party for any purpose whatsoever and neither Party has any authority to enter into any contract or assume any obligation for the other Party or to make any warranty or representation on behalf of the other Party. Each Party shall be fully responsible for its own employees, servants and agents, and the employees, servants and agents of one Party shall not be deemed to be employees, servants and agents of the other Party for any purpose whatsoever.

**8. Termination**

This Agreement may be terminated as follows:

At any time by either party upon 6 months prior written notice to the other party;

* 1. By the Manufacturing Partner due to the Merchant Exporter’s breach of the Agreement, insolvency, bankruptcy, liquidation;
	2. By the Merchant Exporter due to the Manufacturing Partner’s breach of the Agreement, insolvency, bankruptcy, or liquidation.

**9. Indemnity**

The Parties each agree to indemnify and hold harmless the other party, its respective affiliates, officers, Exporters, employees, and permitted successors and assigns against any and all claims, losses, damages, liabilities, penalties, punitive damages, expenses, reasonable legal fees and costs of any kind or amount whatsoever, which result from the negligence of or breach of this Agreement by the indemnifying party and/or its respective successors and assigns that occurs in connection with this Agreement. This section remains in full force and effect even after termination of the Agreement by its natural termination or the early termination by either party.

**10. Limitation of Liability.**

UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY DAMAGES RESULTING FROM ANY PART OF THIS AGREEMENT SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFIT OR LOST BUSINESS, COSTS OF DELAY OR FAILURE OF DELIVERY, WHICH ARE NOT RELATED TO OR THE DIRECT RESULT OF A PARTY’S NEGLIGENCE OR BREACH.

**11. Severability.**

In the event any provision of this Agreement is deemed invalid or unenforceable, in whole or in part, that part shall be severed from the remainder of the Agreement and all other provisions should continue in full force and effect as valid and enforceable.

**12.Assignment:**

Neither party may assign the rights or obligations under this Agreement without the prior written consent of the other party,

**13.Waiver.**

The failure by either party to exercise any right, power, or privilege under the terms of this Agreement will not be construed as a waiver of any subsequent or future exercise of that right, power, or privilege or the exercise of any other right, power, or privilege.

**14.Representations and Warranties**

Both Parties represent that they are fully authorized to enter into this Agreement. The performance and obligations of either Party will not violate or infringe upon the rights of any third-party or violate any other agreement between the Parties, individually, and any other person, organization, or business or any law or governmental regulation.

**15. Legal and Binding Agreement.**

This Agreement is legal and binding between the Parties as stated above. This Agreement may be entered into and is legal and binding on the parties. The Parties each represent that they have the authority to enter into this Agreement.

**16. Force Majeure:**

For the purposes of this Agreement, "Force Majeure Event" shall mean any event or circumstance beyond the reasonable control of the affected party, including but not limited to acts of God, war, terrorism, civil commotion, fire, flood, epidemic, earthquake, governmental regulations, labor disputes, and other similar events.

1. **Notification:** In the event that either party is unable to perform its obligations under this Agreement due to a Force Majeure Event, the affected party shall promptly notify the other party in writing, providing details of the Force Majeure Event and its anticipated impact on performance.
2. **Mitigation:** The affected party shall use its best efforts to minimize the impact of the Force Majeure Event on its performance under this Agreement and to resume full performance as soon as reasonably possible.
3. **Suspension of Obligations:** During the period of the Force Majeure Event, the obligations of the affected party, to the extent affected by such event, shall be suspended. The time for performance of such obligations shall be extended for a period equal to the duration of the Force Majeure Event.
4. **Termination:** Notwithstanding the provisions of Clause 8 of this Agreement, if the Force Majeure Event continues for a period exceeding 60 days, either party may, by written notice, terminate this Agreement without any liability or obligation arising from such termination, except for the payment of commission accrued up to the date of termination.
5. **No Waiver:** The failure of either party to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as thereafter waiving any such terms, conditions, or breaches.
6. **Continued Cooperation:** During the Force Majeure Event, both parties shall continue to cooperate and use commercially reasonable efforts to resume performance under this Agreement.

**17. Dispute Resolution:**

In the event of any dispute arising out or in relation to this Agreement, the same shall be decided by Arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996. The venue of arbitration shall be at Chennai and the proceedings shall be conducted in English. The Arbitration shall be done by a panel of Three Arbitrators, one each appointed by the Manufacturing Partner and the Merchant Exporter and the third Arbitrator being appointed based upon mutual agreement between the other two Arbitrators appointed as above and the Award of the Tribunal shall be by majority and the same shall be final, conclusive and binding upon the parties.

**18. Entire Agreement:**

This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior discussions, negotiations and agreements whether oral or written.

IN WITNESS WHEREOF, the parties have put their respective hands, the day and year first hereinabove written.

**MANUFACTURING PARTNER MERCHANT EXPORTER**

WITNESSES;

1.

2.

**BY E-MAIL / COURIER**

**File No 14/2024-Opinion**

24.02.2024

M/s. P.A. Footwear Pvt. Ltd.,

MIG 338, 8th Main Road, Phase-I,

Nolambur, Mugappair West,

Chennai – 600 037.

Attn.: Mr. Venkat Jayaram, General Manager-Finance <venkatjayram@pafootwear.in>

**Mobile: 98401 92862**

C.C.: <pafexim002@pafootwear.in> / <sivavilvaselvan@pafootwear.in>

**Sub.: Agreement for Manufacture and Supply to Merchant Exporter.**

Dear Mr. Venkat Jayaram,

With regard to the above, please find attached the following.

i. Revised Agreement made after taking into account all the inputs.

ii. Our Bill towards professional charges.

Kindly arrange for payment of the bill

Regards,

Murugappan

Attached: as above.

sm/ss