

PORTMEIRIONGROUP

TERMS AND CONDITIONS OF PURCHASE

(Effective from 2 February 2022)

1. Definitions

1.1 The following definitions apply in these Conditions:

Company:	refers to any group company within the Portmeirion Group, including Portmeirion Group UK Limited (Registered office: London Road, Stoke-on-Trent, Staffordshire, ST4 7QQ, England; registered number: 00417484; VAT No. GB 592 3263 32) and Wax Lyrical Limited (Registered office: Lindal Business Park, Lindal-in-Furness, Cumbria, LA12 0LD, England registered number: 001499611; VAT No. 659 8959 45), as relevant;
Conditions:	the terms and conditions set out in this document as amended from time to time in accordance with Condition 2.3;
Supplier:	the person or firm or company from whom the Company purchases Goods and/or Services;
Agreement	these Conditions together with the description/specification of the Goods or Services, the order placed by the Company and any acknowledgement provided by the Supplier.
Data Protection Legislation:	(i) unless and until the GDPR is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 2018;
Force Majeure Event:	any act of God, war, strike, lockout, industrial action, fire, flood, drought, windstorm, epidemic, pandemic or other event beyond the reasonable control of either party;
GDPR:	General Data Protection Regulation ((EU) 2016/679);
Goods:	the goods ordered by and supplied to the Company by the Supplier;
Services	the services ordered by and supplied to the Company by the Supplier;

2. Contracts

- 2.1 The Conditions shall be incorporated into all contracts for the purchase of Goods or Services by the Company from the Supplier to the exclusion of any terms or conditions referred to by the Supplier with the exception of any other terms agreed in writing between the parties in accordance with clause 3.2. By supplying Goods or Services to the Company the Supplier is deemed to have accepted these Conditions.
- 2.2 None of the Company's personnel or any other person is authorised to make any variation of these Conditions or any contract or give any representations on behalf of the Company unless confirmed in writing by a director or company secretary of the Company.
- 2.3 The Company may vary these Conditions at any time by providing the Supplier with updated conditions or by making updated conditions available at www.portmeiriongroup.com or www.waxlyricaltrade.com.

3. Orders and Acceptance

- 3.1 No order binds the Company unless it is in writing.
- 3.2 All orders are made subject to the Conditions and no alterations or modification of terms inconsistent herewith shall have an effect unless in writing and signed by a director or company secretary on behalf of the Company.
- 3.3 Without limitation to the foregoing clause, these terms and conditions govern verbal orders placed by the Company with the Supplier from time to time. All verbal orders must be confirmed in writing.

4. Goods and Services

- 4.1 All Goods will be carriage paid from the Supplier unless otherwise agreed and stated on the order.
- 4.2 All Goods and Services supplied shall comply in full with orders received by the Supplier.
- 4.3 The Supplier warrants that all Goods and Services will correspond with their specification at the time of delivery, shall comply with any sample which the Supplier has previously, or concurrently, forwarded to the Company, shall be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended), free from any defects, fit for any purpose held out by the Supplier and comply with all applicable statutory and regulatory requirements and in the case of Services be performed in a professional and businesslike manner. In the event that any Goods or Services may not conform with the warranties given by the Supplier under this clause, the Supplier will notify the Company of such at the earliest opportunity and in any event within 48 hours of becoming aware of such possible or actual non-conformance.
- 4.4 No variation, modification or change will be accepted to the Goods or Services without the prior written consent of the Company.
- 4.5 If Goods or Services are varied, modified or changed and such changes are not accepted by the Company or the Goods or Services do not conform to the warranties given under clause 4.3, the Company may, at its discretion, cancel the Agreement in whole or in part.
- 4.6 The Company is not obligated to purchase any quantity of Goods and/or Services except for such quantity(ies) as may be specified by the Company on the order or on a separate written signed release issued by the Company pursuant to an order.
- 4.7 If agreed in writing, service levels and performance metrics shall govern the Supplier's performance of the Services. In the event of service failure, service credits will be payable promptly at a level agreed between the Supplier and the Company.

5. Price and Payment

- 5.1 The price(s) quoted on any official order shall not be varied without prior written confirmation from the Company. Prices will be fixed for any agreed term and any changes to such price(s) shall be mutually agreed in writing no later than three (3) months before any agreed renewal dates for supply of the Goods and/or Services.
- 5.2 All prices quoted are exclusive of VAT.

- 5.3 Payment terms will be net monthly from the receipt by the Company of the later of (i) the Goods and/or Services and (ii) a valid undisputed invoice and where relevant any supporting documentation.
- 5.4 Payment of the invoice in respect of the Goods and/or Services shall be made in sterling, by automated bank transfer, unless otherwise agreed.
- 5.5 Any interest charges levied upon late payment of undisputed invoices will be at 3% above the Bank of England base rate.
- 5.6 The Company shall be entitled to set off against the amount to be remitted to the Supplier any other sums which are owing to the Company from the Supplier at the date of payment of said invoice.

6. Delivery

- 6.1 In respect of delivery dates for Goods and Services, time is of the essence. The Company shall be entitled to cancel an order in full, or in part, at any time and, in respect of Goods, return (at the Supplier's cost) the Goods already supplied (if any) without payment of penalty if the Supplier fails to meet any delivery date. In respect of Services, if the Company cancels an order in full, or in part, due to the Supplier's failure to meet a delivery deadline, any Services already supplied up to the date of cancellation shall be paid for by the Company in accordance with Condition 5.3 of these Conditions.
 - 6.2 If on delivery any Goods are missing, lost or damaged the Supplier will at its own expense replace the Goods or allow credit for their invoice value.
- ### 7. Risk and Title
- 7.1 Risk in the Goods shall pass to the Company upon delivery at the delivery point agreed between the parties provided that:
 - a) the Supplier shall at all times be responsible for any defect in or damage to Goods supplied or any loss arising from the supply of the Goods caused by the act, neglect or default of the Supplier, its employees, agents or carriers;
 - b) if any Goods appear to be below satisfactory quality, defective or are not, in any respect, in accordance with any of the details of the order, product specification or samples previously approved then the Company shall be entitled to reject the Goods.
 - 7.2 Title in the Goods shall pass to the Company on payment. Before the passing of title to the Company, nothing in the Conditions will act so as to prevent the use or sale of the Goods or Services by the Company in the ordinary course of business, in which case title to such Goods or Services will be deemed to pass to the Company immediately before the use or sale of the Goods or Services in question notwithstanding that payment has not yet been received by the Supplier.

8. Rejected Goods

- 8.1 Any rejected Goods will be returned or made available for collection, either of which to be at the Suppliers cost.
- 8.2 Any Goods not collected, or requested to be returned, within 14 days will be disposed of. Any costs incurred by the Company for disposal will be reclaimed from the Supplier with funds withheld against any monies owed to the Supplier.
- 8.3 The Supplier shall reimburse the Company within 14 days of the disposal/return/collection of rejected Goods with all monies paid in respect of such Goods.

9. Audit and Inspection

- 9.1 The Company, either directly or through its appointed representatives, will require the right to carry out inspections, audits and tests relating to the Supplier's provision of the Goods or Services as may be reasonably required to support the Company's internal and statutory audits and create reports required by government or other regulatory authorities. The Supplier will be required to allow such reasonable access and rights of inspection, audit and test upon reasonable notice, where it is possible to provide such notice, from the Company.
- 9.2 The Company requires the Supplier to allow reasonable access and rights of audit to any governmental or regulatory body who requires the right to investigate the Company's affairs, including its relationships with its suppliers.

10. Liability

- 10.1 The Supplier shall keep the Company indemnified in full against all direct, liabilities and losses including, loss of business, damages, costs and reasonable expenses (including legal and other professional fees and expenses) incurred, suffered, awarded against or paid by the Company as a result of or in connection with:
 - a) any infringements or alleged infringements made by the Supplier of the intellectual property rights which may affect the Goods and/or Services;
 - b) late supply and/or undersupply of the Goods and/or Services;
 - c) any personal injury or death arising from the defective manufacture of the Goods or provision of the Services;
 - d) any damage or loss of property, real or otherwise, caused directly or indirectly by the Goods and/or Services; or
 - e) any claim, damage or loss arising as a result of the Goods and/or Services supplied being defective, not fit for purpose or not of satisfactory quality.

11. Publicity and References

- 11.1 The Supplier shall not use the Company name or trademark, or any other name or trademark as owned or used on the Company products, in anyway in respect of their business without the implicit and prior written consent of the Company.

12. Policies and Procedures

- 12.1 The Supplier must comply at all times with any Company policies and procedures provided or made available to them. Failure to comply with these obligations will constitute a material breach leading to a right of termination.
- 12.2 The Supplier acknowledges that it has read and understands the Portmeirion Group Supplier Code of Conduct and Portmeirion Group Anti-bribery and Corruption Policy which may be updated or modified by the Company from time to time (the 'Codes') and which are available at www.portmeiriongroup.com or on request from the Company Secretary.

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- 12.3 The Supplier agrees to fully comply with the Codes with regard to the provision of Goods and/or Services. The Supplier agrees not to pay, promise to pay, give or authorise the payment of any money or anything of value, directly or indirectly, to any person for the purpose of illegally or improperly inducing a decision or obtaining or retaining business in connection with any order.
- 13. Subcontracting**
- 13.1 The Company shall have right of veto over the engagement of any subcontractor by the Supplier, who in the opinion of the Company may have the potential to adversely affect the Goods or Service delivery.
- 14. Assignment and Transfer**
- 14.1 The Supplier may not assign or sublet or transfer any order or any of its rights or obligations under this Agreement without the knowledge and consent of the Company.
- 14.2 The Company may assign or transfer any of its rights and obligations under the Agreement to any member without consent.
- 15. Confidentiality**
- 15.1 Each party shall keep and procure to be kept secret and confidential all Confidential Information belonging to the other party disclosed or obtained as a result of the relationship of the parties and shall not use nor disclose the same save for the purposes of the proper performance of the relationship or with the prior written consent of the other party.
- 15.2 Where disclosure is made to any employee, consultant, sub-contractor or agent, it shall be done subject to obligations equivalent to those set out here. Each party shall use its best endeavours to procure that any such employee, consultant, sub-contractor or agent complies with such obligations. Each party shall be responsible to the other party in respect of any disclosure or use of such Confidential Information by a person to whom disclosure is made. "Confidential Information" means secret or confidential, commercial, financial, marketing, technical or other information (including, without limitation, information in or relating to the Goods), know-how, trade secrets and other information in any form or medium whether disclosed orally or in writing before or after the date of this Agreement, together with any reproductions of such information in any form or medium or any part(s) of this information.
- 16. Termination**
- 16.1 Where a term has been agreed between the parties, the Company shall have the right to terminate for convenience, in part or in full, at any time on three months' written notice.
- 16.2 The Company may terminate the Agreement in whole or in part, immediately (or as of a date specified in the notice of termination) in any of the following circumstances:
- the Supplier commits a material breach of any of these Conditions and that breach is irremediable or (if that breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
 - the Supplier repeatedly breaches any of these Conditions in such a manner to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement
 - the Supplier is or in the reasonable opinion of the Company may be affected by an insolvency event;
 - there is a change of control of the Supplier that is directly or materially involved in the provision of the Services and as a result of such change the Supplier or such member is controlled by:
 - a competitor of the Company; or
 - an entity that has a Dun and Bradstreet credit rating of 2 or lower.
- 17. Force Majeure**
- 17.1 Neither party shall be liable for any delay or other failure to perform the whole or any part of any contract resulting from any Force Majeure Event existing at the date of the contract or arising thereafter. The time for performance shall be extended by the period of any such delay.
- 17.2 The affected party shall:
- as soon as reasonably practicable after the start of the Force Majeure Event, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Agreement; and
 - use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- 18. Data Protection**
- 18.1 Both the Company and the Supplier will comply with all applicable requirements of the Data Protection Legislation. This Condition 18 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 18.2 The Company is the Data Controller (as defined in the Data Protection Legislation) in relation to Personal Data (as defined in the Data Protection Legislation) provided by the Supplier to the Company.
- 18.3 Without prejudice to the generality of Condition 18.1, the Supplier will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of Supplier Personal Data to the Company.
- 18.4 The Company may collect, store and use Personal Data about the Supplier (if it is an individual, sole trader or partnership) and the employees of the Supplier who are Data Subjects (as defined in the Data Protection Legislation) referred to in these Conditions as Supplier Personal Data. For more detailed information as to how the Company handles Supplier Personal Data please see the Company's Corporate Privacy policy which can be viewed at www.portmeiriongroup.com.
- 19. Severance**
- 19.1 If any provision or part-provision of these Conditions is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable.
- 19.2 If that modification is not possible, the relevant provision or part-provision shall be deemed deleted.
- 19.3 Any modification to, or deletion of, a provision or part-provision under this Condition 18 shall not affect the validity and enforceability of the rest of these Conditions.
- 19.4 If any provision or part-provision of these Conditions is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend that provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 20. Dispute Resolution**
- 20.1 If a dispute arises out of or in connection with these Conditions or the performance, validity or enforceability of them ("Dispute") then except as expressly provided in these Conditions, the parties shall follow the procedure set out in this Condition 20.
- 20.2 Either party shall give to the other written notice of the Dispute, setting out its nature and full particulars ("Dispute Notice"), together with relevant supporting documents. On service of the Dispute Notice, the Company and the Supplier shall attempt in good faith to resolve the Dispute.
- 20.3 If the Company and the Supplier are for any reason unable to resolve the Dispute within 30 days, the parties agree to enter into mediation in good faith to settle the Dispute in accordance with the CEDR Model Mediation Procedure.
- 20.4 If the Dispute is not resolved by the CEDR Model Mediation Procedure or either party fails to participate or ceases to participate in the mediation, the Dispute shall be finally resolved by the courts of England and Wales in accordance with Condition 22.1.
- 21. Waiver**
- 21.1 A waiver of any right or remedy under these Conditions or by law shall only be effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.
- 21.2 A failure or delay by the Supplier or the Company to exercise any right or remedy provided under these Conditions or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under these Conditions or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 22. Entire Agreement**
- 22.1 The Agreement constitutes the entire agreement between the Company and the Supplier, and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 22.2 The Supplier and the Company each acknowledge that in entering into the Agreement they do not rely on, and shall have no remedies for, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Agreement.
- 22.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Agreement.
- 23. Law, Jurisdiction and Construction**
- 23.1 The Agreement shall be governed by English law and the parties consent to the exclusive jurisdiction of the English courts in all matters relating to the Agreement except to the extent the Company invokes the jurisdiction of the courts of any other country.
- 23.2 The headings of Conditions are for convenience of reference only and shall not affect their interpretation. Each Condition and sub-Condition is severable from each and every other Condition and sub-Condition.
- 24. Notices**
- 24.1 Any notice to be given to either party shall be in writing and sent by electronic mail. Notices to the Company should be sent to legal@portmeiriongroup.com. Notices given by email shall be deemed to have been given on the date of the electronic mail transmission.
- 25. Rights of Third Parties**
- 25.1 The parties to this contract do not intend that any term of the contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- INVOICING INSTRUCTIONS**
- All invoices and related correspondence must be written in English.
 - A full description of the Goods and/or Services, relative to that shown on our official purchase order, must be given.
 - Our order number **MUST** be quoted on all invoices, delivery notes and any related correspondence. The Wax Lyrical Limited item code should also be included if relevant. All invoices must be sent on the same day as the Goods are sent or Services performed under separate cover. Any invoices received before the Goods or Services will be treated as issued on the date the Goods were received or Services performed. A delivery note must accompany the Goods at the time of delivery and all Goods must be identified with the respective item code and description.
 - Non-UK Orders**
The following information must appear on the invoice/packing list as required: **country of origin**; item codes; description; incoterms; nett weight; gross weight; no. cartons; total quantity; any discounts applicable and trading currency.
Two copies of the invoice and packing list plus either the telex release, surrendered Bill of Lading or express Bill of Lading should be provided to the Company (original documents are not required unless advised otherwise). Any excess charges incurred by the Company due to late or incorrect documentation received will be charged back to the Supplier.