

Trade terms and conditions of sale

(Effective period from 30 July 2018)

1. Definitions

1.1 The following definitions apply in these Conditions:

- Company:** Portmeirion Group UK Limited (Registered office: London Road, Stoke On Trent, Staffordshire, ST4 7QQ; registered number: 00417484);
- Conditions:** the terms and conditions set out in this document as amended from time to time in accordance with Condition 2.2;
- Customer:** the person or firm or company who purchases Goods from the Company;
- 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;
- First Quality:** an item which has not been classified as a Second and has met our quality standards;
- Force Majeure Event:** any act of God, war, strike, lockout, industrial action, fire, flood, drought, windstorm 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 Customer which may consist of First Quality items or Seconds;
- Second(s):** an item where there is a marginal fault to the finish, decoration or shape which is not structural in that the item will still function as intended and is usable.

2. Contracts

- 2.1 These Conditions shall be incorporated in all contracts for the sale of Goods by the Company to the exclusion of any terms or conditions referred to by the Customer. By signing the Company's account opening form the Customer is deemed to have accepted these Conditions. Acceptance of any delivery by or on behalf of the Customer shall in any event be conclusive evidence of the Customer's acceptance of 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 the Company. The Company may vary these Conditions at any time by providing the Customer with updated conditions or by making updated conditions available on the Company's corporate website (www.portmeiriongroup.com). The variation of any contract or exercise of any right of termination or otherwise thereunder shall not require the consent of any third party even if such third party is vested with rights conferred pursuant to these Conditions.

3. Orders

- 3.1 The Customer may place an order with the Company in writing (either by paper or electronic means) specifying the type and quantity of Goods ordered.
- 3.2 Each order shall be deemed to be a separate offer by the Customer to purchase Goods on these Conditions, which the Company shall be free to accept or decline at its absolute discretion.
- 3.3 No order shall be deemed to be accepted by the Company until it acknowledges the order in writing or (if earlier) delivers the Goods.

4. Price etc

- 4.1 The Company's prices exclude VAT where applicable and all other taxes or duties.
- 4.2 The Company's prices include packaging and insurance up and until delivery.
- 4.3 The Company's prices shall include carriage unless otherwise agreed with the Customer.
- 4.4 The Company reserves the right at any time to change the prices of its Goods and to vary the payment terms it allows to any Customer without notice, and in respect of any Goods delivered after such a change or variation the price shall be that at the date of despatch of the Goods and the terms shall be those so varied.

5. Payment

- 5.1 The Company shall be entitled to invoice the Customer for the Goods on or at any time after despatch of those Goods.

5.2 Unless otherwise agreed in writing, payments shall be made by BACS to the Company's nominated account (as detailed on the Company's invoice) not later than the end of the month following that in which the Company's invoice is issued without any discount, set-off or other deduction whatsoever.

5.3 In addition to any other rights of the Company, if the invoice is not paid in full when due (i) interest shall be payable on any overdue amount from the date on which payment was due to that on which it is made (whether before or after judgement) on a daily basis at the rate of three (3) per cent over the base rate quoted by the Company's bankers from time to time, compounded monthly, (ii) all other invoices, whether or not they are due for payment, shall become immediately due and payable, and (iii) the Company reserves the right to apply amounts received first in settlement of any interest on overdue debts then on debts due beginning with the oldest. The Customer shall also pay all legal and other costs incurred by the Company in recovering any amounts owing from the Customer and any Goods in which title has been retained by the Company and such costs shall be due for payment immediately on invoice.

5.4 The Company shall have the right at its discretion and without being required to give any reason, notwithstanding any agreement or arrangement with the Customer or any contract which the Customer may have with a third party, without liability to the Customer, at any time, to exercise any one or more of the following rights, namely (i) to withdraw or limit the amount of any credit granted to the Customer, (ii) to require the price of any Goods to be paid in a manner satisfactory to the Company and (iii) to refrain from delivering any Goods until the price has been so paid.

6. Quality of Goods

- 6.1 The Goods supplied to the Customer by the Company shall:
- conform to the specification and/or description of the Goods provided by the Company;
 - be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Company; and
 - comply with all applicable statutory and regulatory requirements.

7. Delivery

7.1 Unless otherwise stated by the Company in writing, delivery is completed when the Company places the Goods at the Customer's disposal at the Customer's delivery location. The Goods will be accompanied by a delivery note confirming the order number, date of order, type and quantity of Goods.

7.2 Unless otherwise stated by the Company in writing Goods intended for destinations in the United Kingdom mainland will be consigned carriage paid and the form of packaging and transport shall be at the Company's discretion; if other arrangements are made at the Customer's request any additional costs will be payable by the Customer. In other cases and to the extent consistent with these Conditions any trade terms referred to by the Company shall be as defined in the edition of "Incoterms" then current ("Incoterms").

7.3 The Company will make reasonable efforts to meet any dates or times of delivery or availability requested by the Customer and, at its discretion where it identifies any inability or failure to satisfy such a request, to inform the Customer accordingly, but the Company shall not be liable for any loss, damage or expense arising from any delay in delivery from any cause whatsoever nor shall any such delay entitle the Customer to refuse to accept any delivery or repudiate any contract.

7.4 If the Customer fails to take delivery of any Goods when tendered or to provide adequate delivery instructions or to collect them when notified they are ready for collection the Company, at its discretion, may exercise any or all of the following rights, namely (i) to store the Goods at the risk of the Customer, (ii) to require the Customer to pay all storage, transportation, handling or other charges (including expenses in connection with the delay or detention of vehicles) incurred by the Company as a result of such failure (which expenses unless otherwise stated by the Company shall be at the rate of 5% of the invoice value of the Goods) and (iii) to require the Customer to pay for the Goods as though delivery had taken place.

7.5 The Company may deliver the Goods by instalments each of which shall be deemed to be the subject of a separate contract and, unless otherwise agreed in writing, no failure by the Company in any one or more instalments shall entitle the Customer to repudiate any contract for Goods previously delivered or to refuse to accept any undelivered Goods.

8. Risk and title

8.1 Unless otherwise agreed in writing by the Company, risk in the Goods shall pass to the Customer at the delivery point stated in any

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- order acknowledgement given by the Company if in the United Kingdom mainland, and otherwise in accordance with Incoterms.
- 8.2 Despite the earlier passing of risk, title in the Goods shall remain in the Company until the Company has received in cash or cleared funds payment in full of the price of the Goods and for all other Goods supplied by the Company to the Customer whether under this or any other contract made at any time. Nothing in this clause 8.2 will act so as to prevent the Customer from selling the Goods in the ordinary course of business, in which case title to such Goods will be deemed to pass to the Customer immediately before the sale of the Goods in question notwithstanding that payment has not yet been received.
- 8.3 Until title passes:
- the Customer shall hold the Goods as bailee for the Company and ensure that they are at all times kept separate from other property and clearly identified as the property of the Company;
 - the Customer shall not remove, deface or obscure any identifying mark or packaging on or relating to those Goods;
 - the Customer shall maintain Goods in a satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company;
 - the Company shall be entitled at any time on demand to:
 - repossess and sell all or any of the Goods and thereby terminate (without any liability to the Customer) the Customer's right to use or sell them; and
 - enter any premises where the Goods are located for the purpose of inspecting or repossessing them.
- 8.4 The Company shall, without prejudice to any other remedy, be entitled to maintain an action for the price of the Goods although title in them has not passed to the Customer.
- 8.5 The Company transfers to the Customer only such title and rights of use as the Company has in any Goods and in the case of material provided by any third party shall transfer only such title and rights as that party had and has transferred to the Company.
- 9. Missing, lost, or damaged Goods**
- 9.1 If on delivery any Goods are missing, lost or damaged the Company will at its own expense replace the Goods or, at the Company's option, allow credit for their invoice value.
- 9.2 The Company shall have no liability in respect of any such missing, lost or damaged Goods unless the Customer has given written notice of the claim:
- in the case of missing or damaged Goods to the Company (otherwise than on the carrier's documents) within 3 working days of receipt, and to the carrier in accordance with the carrier's claims procedure;
 - in the case of loss of a whole consignment, to the Company within 14 days from the date of the invoice; or
 - in the case of any damage which could not reasonably be detected on inspection immediately on the damage becoming apparent and in any event within 30 days of receipt of the Goods.
- 10. Goods which are not of satisfactory quality/do not conform to their specification**
- 10.1 If following delivery any Goods do not comply with Condition 6 (Quality of Goods) and the defect is shown to have existed at the time of despatch by the Company:
- the Customer may reject the Goods by giving the Company written notice of the defect immediately upon it becoming apparent and in any event within 30 days from receipt of the Goods;
 - the Company will at its own expense replace the Goods concerned or, at the Company's option, allow credit for their invoice value (provided that if the Company and the Customer dispute whether any Goods comply with Condition 6, the Company's decision shall be final and binding on the parties);
 - This Condition 10 shall not apply to Goods supplied as sale goods, Goods supplied on promotion or Goods not of First Quality.
- 10.2 The Company shall have no liability for:
- any Goods which after delivery have been subjected to any incorrect handling or storage or suffered any misuse, neglect or accident;
 - any fault which results from any inaccurate or incomplete information, details or materials supplied by or on behalf of the Customer; or
 - any Goods in cases where the Customer has defaulted in making payment of the price therefore or is otherwise in breach of any of its obligations hereunder.
- 10.3 Except as expressly provided in these Conditions or as otherwise specified or agreed in writing by the Company the Company accepts no liability, express or implied, for any life or wear of any Goods or their quality or suitability for any particular purpose or use under specific conditions (whether or not known to the Company) and it is the sole responsibility of the Customer to ensure that the Goods will meet its requirements.
- 11. Product Recall**
- 11.1 If the Customer is the subject of a request, court order or other directive of a governmental or regulatory authority to withdraw any Goods from the market ("Recall Notice") it shall immediately notify the Company in writing enclosing a copy of the Recall Notice.
- 11.2 Unless required by law, the Customer may not undertake any recall or withdrawal without the written permission of the Company and only then in strict compliance with the Company's instructions about the process of implementing a withdrawal.
- 12. Claims**
- 12.1 The Company shall have no liability in respect of any claim by the Customer under these Conditions unless:
- the Customer has afforded the Company reasonable opportunity and facilities for the investigation of any claim and the making good of any discrepancy and, if the Company so requests, the collection or return of any Goods (but no Goods may be returned without the Company's prior written authorisation); and
 - the opportunity for the Company to investigate any claim is given (in the case of any discrepancy which is reasonably apparent on inspection) within not less than three (3) days from the date on which notice of the claim is given and in any event before the Goods are re-sold.
- 12.2 Where a claim is accepted, any replaced items shall belong to the Company and may be disposed of by the Customer only in accordance with the Company's instructions or if the Company so requests, be returned to the Company.
- 13. Extent of liability**
- 13.1 Except to the extent stated in these Conditions or otherwise agreed in writing by the Company, the Company's liability shall be limited to the invoice value of the Goods in question and, subject to that:
- in respect of all obligations, duties and liabilities in contract, tort or otherwise howsoever under or in connection with the contract the Company excludes liability to the fullest extent permitted by law; and
 - the Company shall not under any circumstances be liable to the Customer whether in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, for any:
 - loss of profit;
 - loss of goodwill;
 - loss of business;
 - loss of business opportunity;
 - loss of anticipated saving;
 - loss or corruption of data or information; or
 - special, indirect or consequential damage.
- 13.2 Nothing in these Conditions excludes liability of the Company for death or personal injury arising from its negligence or for fraud, breach of the terms implied by s12 Sale of Goods Act 1979, defective products supplied under the Consumer Protection Act 1987 or any matter in respect of which it would be unlawful for the Company to exclude or restrict liability.
- 13.3 Except for death or personal injury caused by negligence on the part of the Company or fraud the Company shall be discharged of all liability to which these Conditions apply unless proceedings are begun within twelve (12) months after the Customer became aware (or should reasonably have become aware) of the facts giving rise to such liability.
- 13.4 Nothing in these Conditions shall affect the statutory rights of a Customer who is a consumer as defined in Article 2 (1) of the Consumer Transactions (Restrictions on Statements) Order 1976.
- 14. Termination or suspension**
- 14.1 Without affecting any other right or remedy available to it, the Company may suspend or terminate (at the Company's option) any contract for the sale of Goods under these Conditions to the Customer with immediate effect by giving written notice to the Customer if:
- the Customer fails to pay any undisputed amount due under these Conditions on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;
 - the Customer 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 Customer 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;

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- d) the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2);
- e) the Customer begins negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors;
- f) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer;
- g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer;
- h) the holder of a qualifying floating charge over the assets of the Customer has become entitled to appoint or has appointed an administrative receiver;
- i) a person becomes entitled to appoint a receiver over all or any of the assets of the Customer or a receiver is appointed over all or any of the assets of the Customer;
- j) a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- k) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in (d) to (j) above (inclusive);
- l) the Customer ceases, or threatens to cease, to carry on all or substantially the whole of its business;
- m) there is a change of control of the Customer (within the meaning of section 1124 of the Corporation Tax Act 2010); or
- n) any Force Majeure Event prevents the Customer from performing its obligations under this agreement for any continuous period of three months.
- 15. Force Majeure**
- 15.1 The Company shall not 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 and the time for performance shall be extended by the period of any such delay.
- 16. Data Protection**
- 16.1 Both the Company and the Customer will comply with all applicable requirements of the Data Protection Legislation. This Condition 16 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 16.2 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 Customer to the Company.
- 16.3 Without prejudice to the generality of Condition 16.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of Customer Personal Data to the Company.
- 16.4 The Company may collect, store and use Personal Data about the Customer (if it is an individual, sole trader or partnership) and the employees of the Customer who are Data Subjects (as defined in the Data Protection Legislation) referred to in these Conditions as Customer Personal Data. For more detailed information as to how the Company handles Customer Personal Data please see the Company's Corporate Privacy policy which can be viewed at www.portmeiriongroup.com.
- 17. General**
- 17.1 The Company operates a continuous programme for the development and improvement of its Goods and reserves the right to alter their specifications at any time without notice and to deliver Goods conforming to the altered specification in fulfilment of any contract; no contract shall constitute a sale by sample notwithstanding that any products may have been exhibited to or inspected by the Customer. The Company also reserves the right at any time to update any information it provides, without notice.
- 17.2 Any specifications, drawings, particulars or weights and dimensions and other technical information contained in the Company's quotations, catalogues, price lists, advertisements or elsewhere are approximate only and intended merely to present a general idea of the Goods and (unless otherwise agreed in writing by the Company) are not to form part of any contract. The Company reserves the right to discontinue the sale of particular products without notice at any time.
- 17.3 The Company may at its discretion sub-contract all or any of its obligations under any contract but no contract shall be assigned by the Customer without the Company's prior written consent. Save as expressed to the contrary elsewhere in these Conditions (including in relation to Condition 13 hereof) nothing in these Conditions operates or may be construed or implied as operating to confer any contractual right upon any person who is not a party to the contract.
- 17.4 The acceptance or cancellation of any contract requested by the Customer shall be at the Company's discretion and take effect only when written confirmation of such acceptance has been given by the Company.
- 17.5 The Customer agrees that it shall not supply persons with promotional Goods or Goods not of First Quality where it is known or ought reasonably to be known to the Company or to the Customer that those Goods are intended for re-sale to Consumers (as that term is defined within Condition 13.4) as Goods being of First Quality.
- 17.6 The Customer shall, in its promotion of the Company's goods (or the promotion of such goods and those of any other Company), in the form of advertisements, leaflets or other matter, or in any other medium, including the internet, comply with all directions from time to time given by the Company as to the use of its trade marks, business or product names, logos or the like and shall not reproduce in whole or in part any of the Company's advertising, promotional or other material without first obtaining the Company's prior written consent.
- 17.7 Nothing in these Conditions shall have the effect of assignment of any of the Company's intellectual property rights in the Goods or otherwise to the Customer.
- 17.8 The Company shall grant to the Customer a non-exclusive, revocable licence to use the Company's advertising and point of sale materials ("Materials") to assist in the Customer's marketing and sale of the Goods. The Customer shall not be permitted to sublicense this right and shall not adapt, modify or create derivative works of the Materials. This licence shall only apply in the territory(ies) in which the Customer sells the Goods and shall terminate as soon as the Customer ceases selling the Goods or from 6 months after the Customer places its last order of Goods from the Company (whichever is earlier).
- 17.9 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.
- 18. Severance**
- 18.1 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. If that modification is not possible, the relevant provision or part-provision shall be deemed deleted. 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.
- 18.2 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.
- 19. Dispute Resolution**
- 19.1 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 19:
- a) 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 Customer shall attempt in good faith to resolve the Dispute;
- b) if the Company and the Customer 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;
- c) 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.
- 20. Waiver**
- 20.1 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.

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20.2 A failure or delay by the Customer 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.

21. Entire Agreement

21.1 These Conditions together with the description/specification of the Goods, the order placed by the Customer and the Company's acknowledgement of the order constitute the entire agreement ("the Agreement") between the Customer and the Company, and supersede and extinguish all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

21.2 The Customer 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.

21.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Agreement.

22. Law, jurisdiction and construction

22.1 The contract shall be governed by English law and the parties consent to the exclusive jurisdiction of the English courts in all matters relating to the contract except to the extent the Company invokes the jurisdiction of the courts of any other country.

22.2 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.

23. Notices

23. Any notice to be given to either party shall be in writing and if sent by facsimile or electronic mail or forwarded by prepaid first class (or in the case of Customers outside UK) airmail letter post to the receiving party at its business address as last notified in writing to the other party shall be deemed to have been given on the date of the facsimile or electronic mail transmission (if a copy is sent the same day by post as aforesaid) or 2 working days (or 7 working days in the case of Customers outside the United Kingdom) following the date of posting.

Portmeirion Group UK Limited
Registered Office: London Road, Stoke-on-Trent, England, ST4 7QQ
Registered in England and Wales No. 417484