

## Trade terms and conditions of sale

(Effective period from 1 September 2009)

### Contracts

- 1.1 These conditions shall be incorporated in all contracts for the sale of goods by Portmeirion Group UK Limited ("the Company") to the exclusion of any terms or conditions referred to by the customer. 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.
- 1.2 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 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.

### Price etc

- 2.1 The Company's prices exclude VAT where applicable and all other taxes or duties.
- 2.2 The Company reserves the right at any time to change the prices of its goods and to vary the 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 current at the date of despatch of the goods and the terms shall be those so varied.

### Payment

- 3.1 Unless otherwise agreed in writing, payments shall be made 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.
- 3.2 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.
- 3.3 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.

### Delivery

- 4.1 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").
- 4.2 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.
- 4.3 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.

- 4.4 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.

### Risk and title

- 5.1 Unless otherwise agreed in writing by the Company, risk in the goods shall pass to the customer at the delivery point stated in any order acknowledgement given by the Company if in the United Kingdom mainland, and otherwise in accordance with Incoterms.
- 5.2 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.
- 5.3 Until title passes:
- 5.3:1 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;
- 5.3:2 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;
- 5.3:3 the Company shall be entitled at any time on demand to:
- 5.3:3:1 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
- 5.3:3:2 enter any premises where the goods are located for the purpose of inspecting or repossessing them.
- 5.4 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.
- 5.5 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.

### Missing, lost or damaged goods etc

- 6.1 If on delivery any goods are missing, lost or damaged or not in accordance with their description the Company will at its own expense make good the discrepancy within a reasonable period by replacing the goods concerned at the original point of delivery or, at its option, allowing credit for their invoice value.
- 6.2 The Company shall have no liability in respect of any such discrepancy unless the customer has given written notice of the claim:
- 6.2:1 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;
- 6.2:2 in the case of loss of a whole consignment, to the Company within 14 days from the date of the invoice; or
- 6.2:3 in the case of any damage which could not reasonably be detected on inspection or other discrepancy immediately on the discrepancy becoming apparent and in any event within 30 days from receipt of the goods.

### Warranty

- 7.1 The Company endeavours to secure high standards of materials and workmanship and accordingly will, at its own expense, within a reasonable period make good any discrepancy by replacing at the original point of delivery or, at its option, allowing credit for the invoice value of any goods (other than goods supplied as sale goods, goods supplied on promotion or goods not of first quality) in which any defect of materials or workmanship is shown to have existed at the time of despatch by the Company provided that the customer has given the Company written notice of the defect immediately upon its becoming apparent and in any event within 30 days from receipt of the goods.
- 7.2 The Company shall have no liability for:
- 7.2:1 any goods which after delivery have been subjected to any incorrect handling or storage or suffered any misuse, neglect or accident;

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- 7.2:2 any discrepancy which results from any inaccurate or incomplete information, details or materials supplied by or on behalf of the customer; or
- 7.2:3 any goods in cases where the customer has defaulted in making payment of the price therefor or is otherwise in breach of any of its obligations hereunder.
- 7.3 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.
- Claims**
- 8.1 The Company shall have no liability in respect of any claim by the customer under these conditions unless:
- 8.1:1 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
- 8.1:2 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.
- 8.2 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.
- Extent of liability**
- 9.1 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:
- 9.1.1 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
- 9.1.2 to the fullest extent permitted by law, and
- 9.1.3 in respect of any consequential loss or damage.
- 9.2 Nothing in these conditions excludes liability of the Company for death or personal injury arising from its negligence or for fraud.
- 9.3 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.
- 9.4 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.
- Termination or suspension**
10. If the customer fails to make any payment when and as due or otherwise defaults in any of its obligations under any contract for the supply of goods by the Company to the customer or any other agreement between the Company and the customer, the Company shall, without prejudice to any other remedy, be entitled, at its discretion, without liability to the customer, by giving the customer written notice at any time or times, to suspend its performance of or (whether or not such performance has previously been suspended) terminate such contract.
- Force majeure**
11. 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 cause whatsoever beyond the Company's control 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.
- General**
- 12.1 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.
- 12.2 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.
- 12.3 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 clause 9 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.
- 12.4 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.
- 12.5 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 clause 9.4 of these conditions) as goods being of first quality.
- 12.6 The customer shall, in its promotion of the Company's products (or the promotion of such products and those of any other supplier), 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.
- 12.7 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.
- Law, jurisdiction and construction**
- 13.1 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.
- 13.2 The headings of conditions are for convenience of reference only and shall not affect their interpretation. Each clause and sub-clause is severable from each and every other clause and sub-clause.
- Notices**
14. 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