

Lionel Hitchen Limited
Standard Terms and Conditions of Purchase

1 Agreed Terms and Conditions

- 1.1 These Conditions shall apply to the Contract to the exclusion of any other terms and conditions contained or referred to in any Order, letter, form of contract or other communication between the Buyer and the Seller whether oral or written (including any conditions the Buyer purports to apply) or which are implied by customs, practice or law and the provisions of these Conditions shall prevail in all circumstances.
- 1.2 No variation of these Conditions or the Contract, including any terms or conditions endorsed on or contained in any Order, Specification or other documentation provided by the Buyer, shall be effective unless expressly agreed to in writing by the Buyer and Seller.

2 Definitions

In these Conditions:

“**Affiliates**” means any subsidiary of Buyer, its holding company and/or any holding company or subsidiary of its holding company; and for the purposes of this definition “holding company” and “subsidiary” shall have the meanings ascribed to those terms in Section 736 Companies Act 1985 (as amended by the Companies Act 2006 or otherwise);

“**Buyer**” means Lionel Hitchen Ltd, Virginia Works, Greenwich way, Meridian Park, Andover, SP10 4Jx;

“**Buyer Group**” means Buyer and its Affiliates;

“**Contract**” means the Conditions and the Order;

“**Conditions**” means these standard terms and conditions of Purchase;

“**Order**” means an order for the Products placed by Buyer with Seller;

“**Price**” the price payable for the Products as stated in the Order;

“**Products**” means all articles, materials, products, work or services to be furnished pursuant to an Order; and

“**Seller**” means the party identified on the face of an Order; and

“**Specification**” means the technical or qualitative description (if any) of the Products referred to in or accompanied with the Order or otherwise made known by Buyer to Seller prior to Seller's acceptance of the Order. To the extent that more than one such description is made known to Seller by Buyer the most recent description shall apply.

3 Acceptance

The Order is an offer to purchase and when accepted by Seller becomes the exclusive agreement between the parties relating to the Products. Any of the following shall constitute Seller's unqualified acceptance of an Order: (i) written acknowledgement; (ii) furnishing of any Products pursuant to an Order; (iii) acceptance of any payment for the Products; or (iv) commencement of performance pursuant to an Order. Seller shall issue written acknowledgments within five (5) business days of Order receipt. Notwithstanding the foregoing, an Order shall not operate as a rejection of any offer by Seller (but merely of the terms and conditions contained within such offer) unless such offer contains variances in the description, quantity, Price or delivery schedule of the Products. No terms stated by Seller in accepting or acknowledging an Order shall be binding upon Buyer if inconsistent with or in addition to the terms stated herein unless accepted in writing by Buyer.

4 Products

4.1 Seller warrants and undertakes to the Buyer Group that the Products shall:

- (i) conform as to quantity, quality and description with the particulars stated in the Order and/or in the Specification;
- (ii) be of sound materials and workmanship;
- (iii) be equal in every respect to any samples, patterns or descriptions provided or agreed in writing by Buyer;
- (iv) be of satisfactory quality (within the meaning of the Sale of Products Act 1979 as amended) and capable of any standard of performance, meeting any standards and requirements and fit for any purpose specified in the Order or the Specification or otherwise agreed in writing;
- (v) be free for use and/or adaptation by Buyer without infringing any third party rights or breaching any regulation or restriction whether statutory, contractual or otherwise;
- (vi) comply as to design, construction, composition, packing, packaging, marking, storage, handling delivery and quality with all applicable statutes, statutory instruments, regulations, standards or codes of practice

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- in force, generally accepted applicable industry standards and practices and any requirements notified by any member of the Buyer Group to Seller and conform to any trade description applied to them by Seller;
- 4.2 Seller shall deliver the Products in accordance with the quantities, dates and Specification requested by the Buyer and the Seller will not make any modification to the Products, raw materials used to make the Products, or the Specification without the express prior written consent of the Buyer.

5 Price and Taxes

- 5.1 The Price of the Products shall be as stated in the Order and shall be exclusive of value added tax (VAT) but inclusive of all other charges including, without limitation, insurance, packing, despatch, shipping and import/export duties, unless otherwise specified on the Order.
- 5.2 Seller's invoice shall quote the Buyer's Order number and without this number the invoice shall be deemed incomplete and shall not be payable by the Buyer.
- 5.3 Unless otherwise stated on the Order, payment shall be made by Buyer within one hundred and twenty (120) calendar days following the last day of the month in which Seller's proper invoice is received or (if later, or if no invoice is to be submitted) in which the Products are delivered.
- 5.4 Buyer shall be entitled to set off against the Price any sum owed to any member of the Buyer Group by Seller.

6 Inspection

All Products shall be received subject to Buyer's right of inspection and rejection. Defective Products or Products not in strict conformance with an Order or Specification, will be held for receipt of instructions, at Seller's risk, and if Seller so directs, will be returned, at Seller's expense. If Buyer does not receive such written instructions within thirty (30) days of Buyer's request therefore, Buyer may, without liability to Seller, dispose of the Products, as it deems appropriate, in its sole discretion, at Seller's expense.. Buyer may, by written notice to Seller, and in addition to other remedies provided by law, require replacement or correction of rejected Products. Payment for the Products on an Order prior to inspection shall not constitute acceptance thereof or a waiver of a breach of warranty and is without prejudice to any claim(s) of Buyer. Seller shall inspect all Products prior to shipment to ensure conformance with all requirements of an Order.

7 Packing and Shipping

All items shall be packaged, marked and otherwise prepared in accordance with good commercial practices and Buyer's instructions, if any. Each package must be numbered and labelled with Buyer's Order number, stock number (if applicable), contents, and weight. An itemized packing list shall be included in each shipment and the package containing the packing list must be clearly marked as such. Each packing list shall bear the Buyer's Order number and an accurate description of the Products and quantities in the shipment. Products shipped in excess of Buyer's Order may be returned at Seller's expense. Buyer will not be responsible for any Products furnished without a written Order.

8 Delivery

- 8.1 Delivery of the Products shall be under terms specified on the purchase order, in accordance with Incoterms 2010. Seller must deliver the Products to Buyer, cleared for import, and not unloaded at the named place of destination.
- 8.2 If Seller fails to deliver any Products in whole or in part, by such date and time if specified in the Order (or, if no date is stated in the Order, within the reasonable time and in any event within one (1) month of the date of the Order), Buyer shall (in its discretion) be entitled (without prejudice to any other remedies available to it) to:
- (i) cancel the Order in respect of any Products undelivered or unperformed; and/or
 - (ii) refuse to take delivery of any subsequent delivery of the Order; and/or
 - (iii) claim damages from Seller for any costs, expenses, losses or additional expenditure resulting from such failure by Seller to meet its delivery or performance obligations; and/or
 - (iv) to treat the Contract as repudiated by the Seller in respect of any other Products already delivered or performed under that Contract and to return to Seller at Seller's risk and expense any Products and to recover from Seller all monies paid by Buyer in respect of such Products already provided under the Contract.
- 8.3 If Seller delivers any Products which are supplied in excess of Buyer's requirements as stated in the Order or which are otherwise not in accordance with the Contract, Buyer shall be entitled to:
- (i) return the Products to Seller at Seller's risk and expense; and/or
 - (ii) charge for storage for any such Products.

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- 8.4 Where an Order relates to a series of deliveries and notwithstanding that a delivery may previously have been agreed, Buyer may, without liability, at any time on reasonable notice to Seller, cancel the Order in whole or in part, but only in respect of the Products which, at the time of service of such notice, are still to be delivered.
- 8.5 All Products delivered shall be accompanied by a consignment note specifying the Products and quoting the Order number and part numbers.
- 8.6 If any Products are incorrectly delivered, Seller will pay any additional expenses incurred in redelivering them to the correct destination (including storage and demurrage).

9 Warranty

Seller warrants that all Products, for the period of its shelf life or best before date, shall: (i) be of good quality and workmanship and free from defects, latent or patent, in material or workmanship, (ii) conform in all respects to the Specification, performance standards, drawings, samples or descriptions of Seller and Buyer, (iii) be free of any claim of any third party; and (iv) be manufactured in accordance with generally accepted good manufacturing and quality practices. These warranties are in addition to all other express warranties and legal rights. No remedy available to Buyer for the breach of any warranties shall be limited except to the extent and in the manner expressly agreed upon by Buyer in an executed document. Buyer's approval of any sample or acceptance of any Products shall not relieve Seller from responsibility to deliver the Products conforming, in all respects, to the sample. These warranties shall not be deemed waived either by reason of Buyer's acceptance of the Products or by payment for them and shall survive delivery. In the event of a breach of warranty, Buyer may return such Products, at Seller's expense, for correction, replacement or credit as Buyer may direct. This warranty shall apply to replacement Products and parts. Seller shall effectuate corrections or replacements within ten (10) days of receipt of the Products.

10 Confidential Information

Seller agrees to keep secret and confidential all confidential, proprietary or non-public information of Buyer and the existence, terms and conditions of an Order ("**Confidential Information**"). In addition, the Seller agrees to (i) disclose the Confidential Information only to its employees who need to know for purposes of fulfilling an Order, and (ii) use the Confidential Information only for the purpose of fulfilling an Order. It is understood that no license (expressed or implied) is hereby granted by the Buyer under any Confidential Information.

11 Time is of the Essence

If, for any reason, at any time, Seller shall refuse or be unable, or should reasonably anticipate being unable to deliver any part or all of the Products in accordance with the terms hereof, Seller shall notify Buyer of such refusal or inability at the earliest possible time and by the most practical means under the circumstances. Such notification shall not be deemed to operate as a release of Seller from its obligations under an Order. Buyer shall have the right to replace, modify and/or cancel any delayed open Orders without any liability to Seller. In the event of such a replacement or modification, Seller shall pay to Buyer (or at Buyer's option, it may offset such amount from any amount owed to Seller) promptly upon demand, an amount equal to the cost of such replacement or modification, less the amount which would have been payable to Seller for an equal quantity and quality of Products, plus any amount incurred by Buyer to effectuate such replacement or modification. Such amount is agreed to be damages for Seller's non-performance and shall not, in any event, be construed to be a penalty. Price increases or extensions of time for delivery shall not be binding upon Seller unless evidenced by a change order issued by its authorized representative.

12 Indemnification and Insurance

Seller shall defend, indemnify, and hold harmless Buyer, its Affiliates and officers, employees, agents, representatives, or customers from any claim, suit, loss, cost, damage, expense (including, without limitation, the costs and expense incurred in defending suits or actions alleging liability) to any person of whatsoever nature of any kind arising out of, as a result of, or in connection with (i) Seller's performance of an Order; (ii) omissions or negligence of Seller, its Affiliates or its officers, employees, agents, representatives, or subcontractors; (iii) the Products; or (iv) a claim for infringement of rights in, to or under patents, trade marks, copyrights or other intellectual property rights by the manufacture, design, use, maintenance, support or sale of any Products. Without in any way limiting the foregoing, Seller and any person or entity performing work for or on behalf of Seller under an Order shall maintain public liability and property damage insurance covering Seller's obligations hereunder and the Products and shall maintain, in accordance with applicable law,

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workers' compensation insurance covering all employees performing work with respect to an Order. This provision shall survive expiration or termination of an Order.

13 Termination

Buyer shall have the right, without any liability or costs to Seller, to cancel any unshipped portion of an Order (i) a portion of which is not in strict conformance with an Order or the Specification, (ii) in the event Seller has breached an Order, any warranty or its obligations to Buyer, (iii) in the event that Buyer's business is interrupted because of strikes, labor disturbances, riot, fire or Acts of God or any other cause beyond the control of Buyer or (iv) if the Seller makes an assignment for the benefit of creditors, a receiver or trustee is appointed with respect to the Seller's business, the Seller is adjudicated insolvent or if the Seller files or there is filed against Seller a petition for bankruptcy or other relief under the Bankruptcy Code or any successor statute. Buyer shall have the right to cancel any unshipped portion of an Order, in whole or in part, at any time, for a reason other than that set forth above, in which event Buyer shall be liable to Seller for the actual amount of Seller's costs reasonably incurred in contemplation of performance of the canceled portion, less any amount saved by Seller as a result of such cancellation and less any amounts which could have reasonably been mitigated by Seller. Seller is cautioned not to ship, fabricate or build inventories of raw or finished stock at a rate faster than is required to meet delivery requirements of an Order.

14 Compliance With Law

14.1 Seller warrants that the Products, including all packaging thereof, shipped pursuant to an Order shall have been produced in compliance with and meet the minimum standards of all applicable laws.

14.2 Seller will be responsible for obtaining, recording, filing and maintaining all export and import documentation including all licenses and permits, as well as for the payment of associated fees. Seller shall appropriately label containers of all Products which are known to constitute a health, poison, fire, environmental, safety or explosion hazard.

15 Assignment

Seller agrees that Seller will neither assign its rights nor delegate its obligations under an Order without the prior written consent of Buyer.

16 Amendment, Modification, Waiver and Remedies

Performance of an Order must be strictly in accordance with its stated terms and conditions and no change, modification, revision or waiver shall be binding unless executed by Buyer. No waiver of or failure to perform any or all of these Conditions shall constitute a waiver of or an excuse for non-performance as to any other part of this or any other Order. No remedy herein provided shall be deemed exclusive of any other remedy allowed by law or in equity. Under no circumstances shall Buyer be obligated for consequential damages, loss of revenue or profit, or any amount in excess of the total amount stated on the face of any Order. Seller shall bear all expenses, including reasonable legal and professional fees, Buyer incurs to enforce its rights under an Order.

17 General

17.1 Seller shall ensure that any hazardous Products have prominent and suitable warnings on all containers, packages and documents, and that such markings comply with statutory requirements standards and codes of practice. Prior to delivery of any Products, Seller shall supply Buyer with all relevant hazardous data, and shall promptly update such data from time to time as additional data comes into Seller's possession.

17.2 All Products shall be produced, sold and delivered or performed (as the case may be) in strict compliance with all applicable laws, regulations and instruments to which the Products are subject.

17.3 Any notice given by either party to the other under these Conditions shall be in writing, addressed to that other party at its registered office or principal place of business or such other address as may have been notified to the party giving such notice and may delivered by hand or sent by first class post or facsimile.

17.4 If any provision of these Conditions is held by any competent authority to be invalid, illegal or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question (if any) shall not be affected thereby. These Conditions prevail to the extent of any conflict or inconsistency between these Conditions and other terms between the parties.

18 Buyer's Property

All tooling, dies, parts, schedules, and the Specification and all reproductions thereof, any other property furnished to Seller by Buyer or paid for by Buyer, shall be (i) the property of Buyer, (ii) clearly identified as Buyer's property by Seller, (iii) subject to removal at any time upon Buyer's demand, and (iv) used only in filling Orders from Buyer or its nominee. Seller assumes all liability for

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loss of, and damage to, such property and Seller shall, unless otherwise directed in writing by Buyer, insure at Seller's expense such property in an amount equal to the replacement cost thereof with loss payable to Buyer.

19 Governing Law

The Contract and all matters arising therefrom shall be governed and construed in accordance with English Law and each party agrees to submit to the non-exclusive jurisdiction of the English courts.

Issued: August 2017 with immediate effect

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