

STANDARD TERMS AND CONDITIONS OF EXPORT SALE

1. Application of Conditions

1.1 The Company shall sell and the Purchaser shall purchase the Goods in accordance with any quotation or offer of the Company which is accepted by the Purchaser, or any order of the Purchaser which is accepted by the Company, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted, or any such order is made or purported to be made, by the Purchaser, or any terms or conditions which the purchaser may purport to apply under any purchase order, confirmation of order or similar document.

2. Interpretation

2.1 In these Conditions:-

Unless the context requires otherwise:-

“Business Day” means any day other than a Saturday, Sunday or bank holiday in England;

“Purchaser” means the person who accepts a quotation or offer of the Company for the sale of Goods or whose order for the Goods is accepted by the Company;

“Conditions” means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Purchaser and the Company;

“Contract” means the contract for the purchase and sale of the Goods under these Conditions;

“Delivery Date” means the date on which the Goods are to be delivered as stipulated in the Purchaser’s order and accepted by the Company;

“Goods” means the Goods (including any instalment of the Goods or any parts for them) which the Company is to supply in accordance with these Conditions;

“Month” means a calendar month;

“The Company” means Hochiki Europe (UK) Limited, a company registered in England under No. 2639909;

“Writing” means any communication effected by telex, facsimile transmission or any comparable means.

“Price” means the price for the goods excluding carriage, packing, insurance and VAT.

2.2 Any reference in these Conditions to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.

2.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

3. Incoterms

3.1 In these Conditions “Incoterms” means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions.

4. Basis of Sale

4.1 The Company’s employees or agents are not authorised to make any representations or claims concerning the Goods unless confirmed by the Company in writing. In entering into the Contract the Purchaser acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.

4.2 No variation to these Conditions shall be binding unless agreed in writing between the authorised representative of the Purchaser and the Company.

4.3 Sales literature, price lists and other documents issued by the Company in relation to the Goods are subject to alteration without notice and do not constitute offers to sell the Goods which are capable of acceptance. An order placed by the Purchaser may not be withdrawn cancelled or altered prior to acceptance by the Company. No contract for the sale of Goods shall be binding on the Company unless (a) the Company has issued a quotation which is expressed to be an offer to sell the Goods; or (b) has accepted an order placed by the Purchaser, by whichever is the earlier of:-

(a) the Company’s written acceptance;

(b) delivery of the Goods; or

(c) the Company’s invoice

4.4 Any typographical, clerical or other accidental errors or omissions in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.

5. Orders and Specifications

5.1 No order submitted by the Purchaser shall be deemed to be accepted by the Company unless and until confirmed in writing by an authorised representative of the Company.

5.2 The specification for the Goods shall be those set out in the Company’s sales documentation unless varied expressly in the Purchaser’s order (if accepted by the Company). The Goods will only be supplied in the minimum units (or multiples) stated in the Company’s price list or in multiples of the sales order as specified. Orders received for quantities other than these will be adjusted accordingly. Illustrations, photographs or descriptions whether in catalogues, brochures, price lists or other documents issued by the Company are intended as a guide only and the contents shall not be binding on the Company.

5.3 The Company reserves the right to make any changes in the specification of the Goods which are required to conform to any applicable safety or other statutory or regulatory requirements or, where the Goods are to be supplied to the Company's specification, which do not materially affect their quality or performance.

5.4 No order which has been accepted by the Company may be cancelled by the Purchaser except with the agreement in writing of the Company and on terms that the Purchaser shall indemnify the Company in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of cancellation.

6. Price of the Goods

6.1 The price of the Goods shall be the price listed in the Company's published price list current at the date of acceptance of the Purchaser's order or such other price as may be agreed in writing by the Company and the Purchaser.

6.2 Where the Company has quoted a price for the Goods other than in accordance with the Company's published price list the price quoted shall be valid for 90 days only or such other time as the Company may specify.

6.3 The Company reserves the right, by giving notice to the Purchaser at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Company which is due to any factor beyond the control of the Company (such as, without limitation, any foreign exchange fluctuation, currency regulation or alteration of duties, any change in delivery dates, quantities or specifications for the Goods which is requested by the Purchaser, or any delay caused by any instructions of the Purchaser or failure of the Purchaser to give the Company adequate information or instructions.

6.4 The Purchaser undertakes not to offer the Goods for resale in any country (not being member states of the European Community or EFTA) notified by the Company to the Purchaser at or before the time the Purchaser's order is placed, or to sell the Goods to any person if the Purchaser knows or has reason to believe that that person intends to resell the Goods in any such country.

6.5 The price is exclusive of any applicable value added tax excise, sales or taxes or levies of a similar nature which are imposed or charged by any competent fiscal authority in respect of the Goods, which the Purchaser shall be additionally liable to pay to the Company.

7. Terms of Payment

7.1 Subject to any special terms agreed in writing between the Purchaser and the Company, the Company shall invoice the Purchaser for the net sum due for the Goods on or at any time after despatch of the Goods.

7.2 Invoices are based on the quantity and condition of Goods and at weights established by the Company when the Goods leave the Company's factory or warehouse.

7.3 The Purchaser shall pay the price of the Goods on the payment date stated in the Contract or, if no express provision for the time of payment is contained in the Contract, not

later than the end of the month following the month of despatch, notwithstanding that delivery may not have taken place and/or that the property in the Goods has not passed to the Purchaser. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.

7.4 All payments shall be made to the Company in the currency of the price stated in the Contract at its office as indicated on the form of acceptance or invoice issued by the Company without any deduction credit or set off whatsoever.

7.5 The Company is not obliged to accept orders from any customer or Purchaser who has not supplied the Company with references satisfactory to the Company; if at any time the Company is not satisfied as to the creditworthiness of the Purchaser it may give notice in writing to the Purchaser that no further credit will be allowed to the Purchaser in which event the Purchaser shall be required to give security deposits in respect of Goods already shipped and no further Goods will be delivered to the Purchaser other than against cash payment and notwithstanding any payment terms contained in the Contract all amounts owing to the Purchaser to the Company shall be immediately payable in cash.

7.6 The purchaser may not withhold payment of any invoice or other amount due to the company by reason of any setoff or counterclaim which the purchaser may have or alleged to have for any reason whatsoever.

8. Delivery

8.1 Delivery of the Goods shall take place and risk in the Goods will pass in accordance with Incoterms, where applicable, otherwise delivery of the Goods shall be made by the Company tendering bills or other appropriate documents of lading or by delivering the Goods to the place specified in the Purchaser's orders and/or the Company's acceptance as the location to which the Goods are to be delivered by the Company or if no place of delivery is so specified by the Purchaser collecting the Goods at the Company's premises at any time after the Company has notified the Purchaser that the Goods are ready for collection. Goods despatched by post will be delivered when the Goods are accepted by the post office in the United Kingdom.

8.2 Unless otherwise agreed in writing by the Purchaser and the Company, shipment and insurance of all Goods ordered will be in accordance with Incoterms as applicable.

8.3 The Company shall endeavour to comply with the shipping instructions given by the Purchaser with its order for the Goods but the Company reserves the right to make part shipments and to ship by vessels of the Company's choice from any port in the United Kingdom or elsewhere.

8.4 Where the Purchaser is to provide a vessel for shipment the Company shall not be responsible for any charges resulting from failure by the Purchaser to give due notice of the vessel's time of arrival.

8.5 The Delivery Date is approximately only and time for delivery shall not be of the essence unless previously agreed by the Company in writing. The Goods may be delivered by the Company in advance of the Delivery Date upon giving reasonable notice to the Purchaser. If

the Company delivers the Goods at any time after the Delivery Date the Company shall have no liability in respect of such late delivery.

8.6 Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Company to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Purchaser in respect of any one or more instalments shall not entitle the Purchaser to treat the Contract as a whole as repudiated.

8.7 If the Purchaser fails to take delivery of the Goods or any part of them on the Delivery Date and/or fails to provide any instructions, documents, licences, consents or authorisations required to enable the goods to be delivered on that date, the Company shall be entitled upon giving written notice to the Purchaser to store or arrange for the storage of the Goods and then notwithstanding the provision of Clause 10.1 of these Conditions risk in the Goods shall pass to the Purchaser, delivery shall be deemed to have taken place and the Purchaser shall pay to the Company all costs and expenses including storage and insurance charges arising from such failure.

8.8 The Company shall not be liable for any costs incurred for whatever reason after delivery of the Goods is deemed to have taken place. Where goods are sold inclusive of any or all of the freight, handling, port or insurance charges, any increases in, or in the rates for, such charges arising after the date of the Contract and before the Goods are delivered or arising through deviation to a new port or airport necessarily or at the Purchaser's request or through any delivery however caused shall be for the Purchaser's account subject to the absolute discretion of the Company. Port surcharges and other incidental charges are not included in the freight rate will be for the Purchaser's account

8.9 Import or customs duty or other official taxes, levies or charges etc., present or future, in the country of destination, or in the territory where the port or ports of arrival are situated, arising from or necessary to enable delivery of the Goods shall be for the Purchaser's account and shall be reimbursed forthwith where necessarily paid by the Company

8.10 The Company shall not be liable to the Purchaser or be deemed to be in breach of the Contract by reason of any delay in delivery or in performing, or any failure to perform, any of the Company's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Company's reasonable control:-

- (a) act of God, explosion, flood, tempest, fire or accident;
- (b) war or threat of war, sabotage, insurrection, civil disturbance or requisition;
- (c) acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- (d) import or export regulations or embargoes;
- (e) strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Company or of a third party);

(f) difficulties in obtaining raw materials, labour, fuel, parts or machinery;

(g) power failure or breakdown in machinery.

9. Insurance

9.1 Unless otherwise expressly agreed in writing by the Purchaser and the Company, Goods sold on a CIF or CIP basis will be insured from the time the Goods leave the warehouse or place of storage at the commencement of transit, throughout the ordinary course of transit and until:-

(a) delivery to the Purchaser's or other final warehouse or place of storage at the destination named in the Purchaser's order;

(b) delivery to any other warehouse or place of storage whether prior to delivery at the destination named in the Purchaser's order or acknowledgement or order which the Purchaser may elect to use either:

(i) for storage other than in the ordinary course of transit;

or

(ii) for allocation or distribution;

(c) the expiry of 60 days after completion of discharge over side of the Goods from the overseas vessel at the final port of discharge or on the expiry of 30 days after unloading the Goods insured from an aircraft at the final place of discharge, whichever shall first occur.

9.1 Insurance on Goods sold CIF/CIP shall be effected by the Company on behalf of and in the name of the Purchaser and shall be for the CIF/CIP value of the Goods plus ten per cent (or such other percentage as may have been agreed in writing between the parties) against all marine and marine war and other marine risks (or air, air war or other air risks where appropriate). All special risks involved in the carriage of the Goods shall be for the Purchaser's account. Claims are payable abroad and are to be made by the Purchaser on the overseas agent of the Company's insurers.

9.2 The purchaser must notify to the company any loss or damage to the goods within 3 working days of receipt and the goods shall be held for inspection to enable a claim to be made on the carrier.

9.3 All costs arising from the insurance being effected by the Purchaser's request on Goods sold on terms other than CIF/CIP shall be for the Purchaser's account.

10. Risk and Property

10.1 Risk of damage to or loss of the Goods shall pass to the Purchaser in accordance with the relevant provision of Incoterms or where Incoterms do not for any reason apply:-

(a) In the case of Goods to be delivered at the Company's premises, the time when the Company notifies the Purchaser that the Goods are available for collection; or

(b) In the case of Goods to be delivered otherwise than at the Company's premises; the time of delivery or, if the Purchaser wrongfully fails to take delivery of the Goods, the time when the Company has tendered delivery of the Goods.

10.1 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Purchaser until the Company has received in cash or cleared funds payment in full of the price of the Goods including any Value Added Tax, Excise, sales of taxes or levies (as more particularly described in paragraph 6.5 herein) and all other Goods agreed to be sold by the Company to the Purchaser for which payment is then due.

10.2 The Purchaser shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the sole and absolute property of the Company, but if the Purchaser does so all money owing by the Purchaser to the Company shall (without prejudice to any other right or remedy of the Company) forthwith become due and payable.

10.3 Until property and the goods passes to the purchaser in accordance with clause 10.1 (above) the buyer shall hold the goods and each of them on a fiduciary basis as bailee for the company. The purchaser shall store the goods (at no cost to the company) separately from all other goods in its possession and marked in such a way that they are clearly identified as the company's property.

10.4 Notwithstanding that the goods (or any of them) remain the property of the company, the purchaser may sell or use the goods in the ordinary course of the purchaser's business at full market value for the account of the company. Any such sale or dealings shall be a sale or use of the company's property by the purchaser on the purchaser's own behalf and the purchaser shall deal as principle when making such sales or dealings. Until property and the goods passes from the company, the entire proceeds of sale or otherwise of the goods shall be held in trust for the company and shall not be mixed with other money or paid into any overdrawn bank account, and shall be at all material times identified as the company's money.

The company shall be entitled to recover the price (as aforesaid) notwithstanding that property and any of the goods has not passed from the company.

11. Warranties and Liability

11.1 Subject to the conditions set out below the Company warrants that the Goods will correspond with their specification at the time of delivery and will be of satisfactory quality.

11.2 The Purchaser shall be responsible for arranging for testing and inspection of the Goods at the Company's premises before shipment. The Company shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit.

11.3 The Company shall be under no liability in respect of any defect arising from fair wear and tear, or any wilful damage, negligence, subjection to abnormal conditions, failure to follow the Company's instructions (whether oral or in writing), misuse or alteration of the

Goods without the Company's approval, or any other act or omission on the part of the Purchaser, its employees or agents or any third party.

11.4 The mixing or use of the Goods is beyond the Company's control and accordingly all conditions and warranties, statutory or otherwise, as to fitness of the Goods for any particular purpose are expressly excluded.

11.5 Subject as expressly provided in these Conditions, all warranties, conditions or other terms implied by statute or common law or otherwise are excluded to the fullest extent permitted by law.

11.6 No Goods may be returned to the Company without the prior agreement in writing of the Company. Subject thereto any Goods returned which the Company is satisfied were supplied subject to defects of quality or condition which would not be apparent on inspection and which, under proper storage and use, appear in the Goods within a period of 36 calendar months from the date of manufacture and arise solely from faulty material or workmanship, may be replaced or repaired free of charge or, at the Company's sole discretion, the Company may refund or credit to the Purchaser the price of the defective Goods but the Company shall have no further liability to the Purchaser.

11.7 Except as expressly provided in these Conditions, the Company shall not be liable to the Purchaser by reason of any representation, or any implied warranty, condition or other term, or any duty at common law or under statute, or under the express terms of the Contract, for any direct or consequential loss or damage sustained by the Purchaser (including, without limitation, loss of profit or indirect or special loss), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of the Company, its servants or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Purchaser.

11.8 The Purchaser shall ensure that, except to the extent that instructions as to the use or sale of the Goods are contained in the packaging or labelling of the Goods, any use or sale of the Goods by the Purchaser is in compliance with all applicable statutory and other regulatory requirements and that the storage and handling of the Goods by the Purchaser is carried out in accordance with directions given by the Company or any competent governmental or regulatory authority and the Purchaser will indemnify the Company against any liability loss or damage which the Company might suffer as a result of the Purchaser's failure to comply with this condition.

11.9 In the event of any breach of this contract by the Company the remedies of the Purchaser shall be limited to damages. Under no circumstances shall the liability of the company exceed the price of the goods.

12. Purchaser's Default

12.1 If the Purchaser fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:-

(a) cancel the order or suspend any further deliveries to the Purchaser;

(b) appropriate any payment made by the Purchaser to such of the Goods (or the goods supplied under any other contract between the Purchaser and the Company) as the Company may, in its sole discretion, think fit (notwithstanding any purported appropriation by the Purchaser);

(c) charge the Purchaser contractual interest (both before and after any judgment) on the amount unpaid, at the rate of 4 per cent per annum above the current base rate at The Bank of England until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest); and

(d) where the price is to be paid in a currency other than Sterling charge to the Purchaser the reduction in the amount of pounds sterling receivable by the Company on conversion of the proceeds by the Company's bankers as a result of variations in the rate of exchange between the due date and the date of actual payment.

12.2 This Condition applies if:-

(a) the Purchaser fails to perform or observe any of its obligations hereunder or is otherwise in breach of the Contract; or

(b) the Purchaser becomes subject to an administration order or makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation; or

(c) an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Purchaser; or (d) the Purchaser ceases, or threatens to cease, to carry on business; or

(e) the Company reasonably apprehends that any of the events mentioned above is about to concur in relation to the Purchaser and notifies the Purchaser accordingly.

12.3 If Condition 12.2 applies then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Purchaser, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

12.4 The company shall be entitled to a general lien on all goods of the purchaser in the company's possession (including goods of the purchaser which have been paid for) for the unpaid price of all goods sold to the purchaser by the company under this or any other contract.

12.5 The provisions of the contracts (Right of Third Parties Act) 1999 shall not apply to this contract and a person who is not a party to this contract shall have no right under that Act to enforce any term of the contract.

13. Confidentiality, Publications and Endorsements

The Purchaser undertakes to the Company that:

(a) the Purchaser will regard as confidential the Contract and all information obtained by the Purchaser relating to the business and/or products of the Company and will not use or

disclose to any third party such information without the Company's prior written consent provided that this undertaking shall not apply to information which is in the public domain other than by reason of the Purchaser's default;

(b) the Purchaser will not use or authorise or permit any other person to use any name, trade mark, house mark, emblem or symbol which the Company is licensed to use or which is owned by the Company upon any premises, notepaper, visiting cards, advertisements or other printed matter or in any other manner whatsoever unless such use shall have been previously authorised in writing by the Company and (where appropriate) its licensor;

(c) the Purchaser will use all reasonable endeavours to ensure compliance with this condition by its employees, servants and agents. This Condition shall survive the termination of the Contract.

14. Force majeure and other circumstances

The Company shall be entitled without liability on its part and without prejudice to its other rights to terminate the contract or unfulfilled part thereof or at its option to suspend or make partial deliveries or extend the time or times for delivery if the manufacture of the Goods by the Company or the Company's supplier or the delivery of the Goods or the performance of the Company of any of its obligations under the contract is hindered or delayed whether directly or indirectly by reason of the Purchaser failing to furnish necessary instructions or information, or by war or other hostilities, civil commotion, act of God, Government action or legislation, interruption of transport, strike, lock-out or other form of industrial action, accidents or stoppages to works, shortage of labour, materials, equipment, fuel or power, breakdown of machinery or any other cause whatsoever beyond the reasonable control of the Company or its sub-contractors, whether or not such cause exists at the date of the order, but without prejudice to the Company's rights to recover payment for Goods already delivered or installed.

15. General

15.1 The company may cancel this contract at any time before the goods are delivered by giving written notice. On giving such notice the company shall promptly repay to the buyer any sums paid in respect of the price. The company shall not be liable for any loss or damage whatsoever arising from such calculation.

15.2 The company's express liability under these conditions shall be the company's only liability and the purchasers only remedy for breach of this contract for the sale of goods and all other liability of the company for contract, tort, including negligence, statute or otherwise, is hereby excluded.

15.3 Nothing in these conditions shall limit or exclude the company's liability for death or personal injuring resulting from its negligence.

15.4 The purchaser shall indemnify the company against all actions, claims, costs, damages, expenses and other loss or liability arising out of a defect in the goods to the extent occasioned or contributed to by any act or omission of the purchaser.

15.5 When placing the order the Purchaser must advise the Company in writing of any special, legal, administrative or regulatory requirements applying in the territory in which the

Purchaser is to import, use or sell the Goods as to composition labelling distributors or sale of the Goods and the Purchaser must advise the Company immediately of any change made in such requirements.

15.6 The Purchaser shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties thereon.

15.7 The Purchaser may not assign, sub-contract, license or otherwise dispose of any part of its rights or obligations under this contract or the benefit of the Contract without the written consent of the Company.

15.8 Any notice required or permitted to be 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 at the relevant time have been notified pursuant to this provision to the party giving the notice.

15.9 No waiver by the Company of any breach of the Contract by the Purchaser shall be considered as a waiver of any subsequent breach of the same or any other provision.

15.10 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

15.11 Any provision of this contract which is or may be void or unenforceable shall to the extent of such invalidity or unenforceability be deemed severable and shall not affect any other provision of this contract.

15.12 The Contract shall be governed and is subject to the law of England and Wales.

15.13 All disputes arising out of this contract shall be subject to the exclusive jurisdiction of the Courts of England and Wales.

15.15 The Uniform Laws on the International Sale of Goods laid down in the 1980 United Nations Convention shall not apply unless expressly agreed between the parties in writing.

Arbitration: If any dispute or difference shall arise between the parties as to the meaning of this contract or any matter or thing arising out of or connected with this contract, then it shall be referred to the determination of an arbitrator to be appointed by agreement of the parties.