

**STANDARD TERMS AND CONDITIONS FOR THE PURCHASE AND/OR HIRE OF GOODS/SERVICES BY
TRADE FABRICATION SYSTEMS LIMITED
(Edition Date: April 2016)**

1 Interpretation

1.1 In these Terms:

"Agreement" means any written agreement between the Parties signed by authorised representatives of the Parties or signed by authorised agents on behalf of the Parties relating to the sale and purchase of the Goods and/or the hire of the Hire Goods and/or the supply and purchase of the Services;

"Contract" means the contract for the sale and purchase of the Goods and/or the hire of the Hire Goods and/or the supply and purchase of the Services which comprises the applicable Order, Specification, Agreement (if any) and these Terms;

"Deliverables" means any documents, information, products and materials supplied by the Supplier to TFS in connection with or related to the Goods or Services or otherwise pursuant or related to the Contract;

"Delivery Address" means the delivery address stated in the Order or otherwise agreed by the Parties in writing;

"Goods" means the goods (including any instalment of the goods or any part of them) described in the Order and references in these Terms to Goods shall include Hire Goods unless stated or the context requires otherwise;

"Hire Goods" means any Goods which are described in the Order as being hired to/by TFS (as opposed to being sold to and purchased by TFS);

"Order" means TFS's purchase order to which these Terms are annexed;

"Parties" means TFS and the Supplier and "Party" means either of them;

"Price" means the price of the Goods and/or the charge for the Services;

"Services" means the services described in the Order;

"Specification" means any plans, drawings, data, requirements or other information relating to the Goods or Services either supplied by TFS to the Supplier or (if applicable) agreed or accepted in writing by TFS;

"Supplier" means the person, firm or company so described in the Order;

"Terms" means the standard purchasing terms and conditions set out in this document and any special terms agreed in writing between the Parties;

"TFS" means Trade Fabrication Systems Limited, a company registered in England and Wales with company number 03523092 of Chesford Park House, 18 Chesford Grange Woolston, Warrington, Cheshire, WA1 4RQ, which places the Order with the Supplier;

"Warranty Period" means (in the case of the Services and all Goods other than Hire Goods) whichever is longest of the following: (i) 12 months after either the date on which delivery of the Goods or performance of the Services has been completed or (if later) the date of acceptance of the Goods or Services by TFS (and such references to Goods and Services shall also include repaired Goods or replacement Goods or Services referred to in section 8.2.1); (ii) the duration of the Contract; or (iii) such other warranty period confirmed in writing by the Supplier or agreed by the Parties in writing or which the Supplier offers to any of its other customers in respect of the Goods or Services; and (in the case of Hire Goods) the duration of the period of hire of Hire Goods to TFS.

1.2 The headings in these Terms are for convenience only and shall not affect their interpretation. References herein to 'in writing' shall include by email.

1.3 Where the words "including" or similar expressions are used in these Terms, they are deemed to have the words "without limitation" following them.

1.4 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

2 Basis of supply

2.1 The Order constitutes an offer by TFS to purchase the Goods and/or hire the Hire Goods and/or purchase the Services subject to these Terms.

2.2 The Supplier must acknowledge receipt of the Order and confirm its unconditional acceptance of the Order and these Terms in writing within 7 days of the Order date, failing which TFS reserves the right to withdraw the Order in writing at any time thereafter whereupon the Order shall lapse and cease to be capable of being accepted by the Supplier. Subject to the previous sentence, if the Supplier delivers the Goods or performs the Services or carries out any work in relation to either of the foregoing, that shall be deemed to be conclusive evidence of the Supplier's unconditional acceptance of the Order and these Terms.

2.3 Subject to section 2.4, unless expressly agreed otherwise in writing between authorised representatives of the Parties or authorised agents on behalf of the Parties, no variation to the Order or these Terms shall be binding and these Terms shall apply to the Contract to the exclusion of any other terms on which any quotation has been given to TFS or subject to which the Order is accepted or purported to be accepted by the Supplier.

2.4 If there is an Agreement, the terms and conditions of the Agreement shall apply to the Parties and form part of the Contract and, in the event of any conflict between the terms and conditions of the Agreement and these Terms, the terms and conditions of the Agreement shall prevail (except as may be expressly stated otherwise in the Agreement).

3 Nature and specification of Goods and Services

3.1 The quantity, quality and description of the Goods and the Services shall, subject as provided in these Terms, be as specified in the Order (including any instructions detailed therein) and in any applicable Specification.

- 3.2 Any Specification supplied by TFS to the Supplier, or specifically produced by the Supplier for TFS, together with the copyright, design rights and any other intellectual property rights in such Specification, shall be the exclusive property of TFS. In consideration of the Price, the Supplier hereby assigns to TFS, with full title guarantee and free from all third party rights, all such copyright, design rights and other intellectual property rights which may be owned by it. The Supplier shall not disclose to any third party or use any such Specification except as required for the purpose of the Contract.
- 3.3 The Supplier shall comply with all applicable laws, standards, regulations, statutory and other legal requirements (including any which are notified by TFS to the Supplier and any relating to health and safety and the environment) concerning the manufacture, packaging, supply, delivery, storage and installation of the Goods and the performance of the Services and which may otherwise apply to the Supplier and/or the Supplier's activities in relation to the Contract.
- 3.4 The Goods shall be marked in accordance with TFS's instructions and any applicable regulations or requirements of the carrier, and properly packed and secured so as to reach their destination in an undamaged condition.
- 3.5 The Supplier shall hire the Hire Goods to TFS throughout the period of hire described in the Order or, if sooner, until termination of the Contract or cancellation of the Order in accordance with these Terms, whereupon the Supplier shall promptly arrange for the Hire Goods to be collected from the Delivery Address at its own cost.

4 Price of the Goods and Services

- 4.1 The Price shall be as stated in the Order and, unless otherwise so stated, shall be:
 - 4.1.1 exclusive of any applicable value added tax (which shall be payable by TFS subject to receipt of a valid value added tax invoice); and
 - 4.1.2 inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods to the Delivery Address and any duties or levies other than value added tax.
- 4.2 No increase in the Price may be made without TFS's prior written consent.
- 4.3 TFS shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Supplier.

5 Payment

- 5.1 The Supplier may invoice TFS on or at any time after delivery of the Goods or performance of the Services has been completed or (in any case) at such other time as may be stated in the Order. In any event, TFS must receive the Supplier's invoice promptly and in any case no later than 3 months after the date on which the Supplier first became entitled to raise the invoice and each invoice must be a valid VAT invoice and accurately quote TFS's valid Order number which is specified in the Order and must not be dated earlier than the date on which it is raised, failing which TFS shall not be required to pay such invoice.
- 5.2 Subject to receipt by TFS of the relevant documentation referred to in section 6.3 and an accurate invoice which has been properly raised by the Supplier and received by TFS in accordance with section 5.1, TFS shall pay the Price as per agreed terms or no later than 30 days following the invoice date or (if later) on acceptance by TFS of the Goods or Services in question.
- 5.3 TFS may set off against the Price any sums owed to TFS by the Supplier, including the Price for any Goods which are returned pursuant to section 8.2.1.

6 Delivery and acceptance

- 6.1 The Goods shall be delivered to, and the Services shall be performed at, the Delivery Address on the date or within the period stated in the Order, in either case during TFS's usual business hours or as otherwise agreed between the Parties in writing.
- 6.2 The time of delivery of the Goods and of performance of the Services is of the essence of the Contract.
- 6.3 A packing list/delivery advice note quoting TFS's valid Order number and containing such other details as TFS may require must accompany each delivery or consignment of the Goods and must be displayed prominently. An accurate signed timesheet or jobsheet or other documentary evidence or confirmation of completion of the Services, detailing the nature of the Services and the times and locations at which the Services were performed, quoting TFS's valid Order number and containing such other details as TFS may require must be supplied to TFS upon or immediately after completion of the Services.
- 6.4 If the Goods are to be delivered, or the Services are to be performed, by instalments, the Contract will be treated as a single contract and not severable.
- 6.5 TFS may reject any Goods delivered or Services performed which are not in accordance with the Contract, and shall not be deemed to have accepted any Goods or Services until TFS has had a reasonable time to inspect and/or test them following delivery or performance thereof and TFS has confirmed its acceptance in writing (such acceptance not to be unreasonably withheld or delayed).
- 6.6 The Supplier shall supply TFS in good time with any instructions or other information required to enable TFS to accept delivery of the Goods and performance of the Services.
- 6.7 TFS shall not be obliged to return to the Supplier any packaging or packing materials for the Goods, whether or not any Goods are accepted by TFS.
- 6.8 TFS will not accept any deliveries of Goods or performance of Services in excess of the amount ordered unless previously agreed in writing by TFS.
- 6.9 If the Supplier fails to deliver the Goods or perform the Services on the due date in accordance with the Contract or otherwise breaches any of its obligations under the Contract then, without limiting any other remedy and without any liability, TFS shall be entitled to:

- 6.9.1 terminate the Contract and cancel any Order in whole or in part by giving notice to the Supplier and require the Supplier to refund to TFS on demand any payments previously made by TFS in respect of any cancelled Order and (where applicable) collect from TFS at the Supplier's cost any Goods already received by TFS pursuant to such Order;
- 6.9.2 refuse to accept any subsequent delivery of the Goods or performance of the Services which the Supplier attempts to make;
- 6.9.3 recover from the Supplier any expenditure reasonably incurred by TFS in remedying the Supplier's failure or breach including, if applicable, obtaining the Goods or Services in substitution from another supplier;
- 6.9.4 claim damages for any additional costs, losses or expenses incurred by TFS which are in any way attributable to the Supplier's failure or breach;
- 6.9.5 require the Supplier, without charge to TFS, to carry out such additional work and take such steps as is necessary to correct the Supplier's failure or breach and ensure future compliance by the Supplier; and
- 6.9.6 deduct from the Price or (if TFS has paid the Price) to claim from the Supplier by way of liquidated damages payable on demand for delay 5 per cent of the Price for every consecutive period of 7 days' delay, up to a maximum of 25 per cent or such greater amount as fully compensates TFS for any losses, damages, costs and claims it may suffer as a result of the Supplier's failure to deliver the Goods or perform the Services on the due date in accordance with the Contract and the Parties agree that such amount represents a reasonable pre-estimate of, and is not out of proportion to TFS's legitimate interests for, any such losses, damages, costs and claims which may be suffered by TFS.

7 Risk and Title

- 7.1 Subject to section 7.3, risk of damage to or loss of the Goods shall pass to TFS on completion of delivery to TFS including completion of off-loading in accordance with the Contract.
- 7.2 Subject to section 7.3, title in and to the Goods shall pass to TFS on delivery, unless payment for the Goods is made prior to delivery or call off, in which case it shall pass to TFS once payment has been made.
- 7.3 Risk of damage to or loss of the Hire Goods and title in and to the Hire Goods shall not pass to TFS.
- 7.4 The Supplier shall be responsible for insuring the Hire Goods at all times and for insuring the Goods for the period prior to risk of damage to or loss of the Goods passing to TFS in respect of all damage thereto and loss thereof at its full replacement value.

8 Warranties and liability

- 8.1 The Supplier warrants to TFS that:
 - 8.1.1 throughout the Warranty Period, the Goods and Services will be of satisfactory quality and fit for any purpose held out by the Supplier or made known to the Supplier at or before the time the Order is placed or otherwise agreed by the Parties in writing;
 - 8.1.2 throughout the Warranty Period, the Goods and Services will be free from defects in design, material and workmanship;
 - 8.1.3 throughout the Warranty Period, the Goods and Services will correspond with the Order, these Terms and any relevant Specification or sample;
 - 8.1.4 throughout the Warranty Period, the Goods and Services will comply with all laws, standards, regulations, statutory and other legal requirements relating to the sale, hire or supply thereof;
 - 8.1.5 throughout the Warranty Period, all information supplied by the Supplier to TFS in connection with or related to the Goods and Services or otherwise pursuant or related to the Contract shall be and remain true, accurate and complete; and
 - 8.1.6 the Services will be performed by appropriately qualified and trained personnel, with due skill, care and diligence in accordance with best industry practice and to such high standard of quality as it is reasonable for TFS to expect from a competent and experienced contractor in all the circumstances.
- 8.2 Without limiting any other remedy, if any Goods or Services are not supplied or performed in accordance with the Contract including the warranties in section 8.1 then, notwithstanding any prior acceptance thereof by TFS, TFS shall be entitled:
 - 8.2.1 to require the Supplier to repair such Goods or to supply replacement Goods or Services in accordance with the Contract at the Supplier's cost within 7 days of being requested to do so by TFS (in which case, such repaired Goods or replacement Goods or Services shall be subject to the warranties referred to in section 8.1) or TFS shall be entitled to return such Goods to the Supplier at the Supplier's cost, in which case, the Supplier shall, within 7 days of receipt of such returned Goods, repay to TFS the Price paid by TFS for such Goods and the costs incurred by TFS in returning such Goods to the Supplier in such amount as TFS shall advise the Supplier; or
 - 8.2.2 at TFS's sole option, and whether or not TFS has previously required the Supplier to repair the Goods or to supply any replacement Goods or Services, to treat the Contract as discharged by the Supplier's breach and require the repayment of any part of the Price which has been paid.
- 8.3 The Supplier shall indemnify TFS in full against all claims, actions, liabilities, losses, damages, costs and expenses (including legal expenses) made, taken or awarded against or incurred or paid by TFS as a result of or in connection with:
 - 8.3.1 any breach of any warranty given by the Supplier in relation to the Goods or the Services;
 - 8.3.2 any claim that the Goods or Deliverables infringe, or their importation, use or resale, infringes, the patent, copyright, design right, trade mark or other intellectual property rights of any other person, except to the extent that the claim arises from compliance with any Specification supplied by TFS;
 - 8.3.3 any act or omission (including any breach, negligence, failure or delay) of the Supplier or its employees, agents or sub-contractors in connection with the Goods and Services or the performance of the Supplier's obligations under the Contract;
 - 8.3.4 any accident caused by or involving the Supplier; and
 - 8.3.5 any persons employed or engaged by the Supplier or its agents or sub-contractors in connection with the Contract.

9 Cancellation and termination

- 9.1 TFS may for any reason cancel an Order in respect of all or part only of the Goods and/or the Services by giving notice to the Supplier at any time prior to delivery or performance, whereupon all work being performed by the Supplier in respect thereof shall be immediately discontinued and TFS's sole liability shall be to pay to the Supplier a fair and reasonable proportion of the Price for the Goods or Services in respect of which TFS has exercised its right of cancellation, less the Supplier's net saving of costs arising from cancellation and not including any loss of anticipated profits or any consequential loss, to compensate for the Supplier's work-in-progress as at the date of cancellation.
- 9.2 In addition to TFS's rights under section 6.9, TFS may terminate the Contract and cancel any Order, without limiting any other remedy and without any liability by giving notice to the Supplier at any time if:
- 9.2.1 the Supplier makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation;
- 9.2.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Supplier;
- 9.2.3 anything occurs with respect to the Supplier in any jurisdiction that has an effect equivalent or similar to any of the events mentioned in sections 9.2.1 and 9.2.2;
- 9.2.4 the Supplier ceases, or threatens to cease, to carry on business; or
- 9.2.5 TFS reasonably apprehends that any of the events mentioned above is about to occur in relation to the Supplier and notifies the Supplier accordingly.
- 9.3 The termination of the Contract or cancellation of any Order, however arising, shall be without prejudice to the rights of TFS and liabilities of the Supplier accrued prior to termination or cancellation. The provisions of these Terms which expressly or impliedly have effect after termination or cancellation shall continue to be enforceable notwithstanding termination or cancellation.

10 Confidentiality and Publicity

- 10.1 The Supplier shall at all times keep in strict confidence and shall use only for the purpose of performing its obligations to TFS all technical or commercial know-how, data, information, materials, specifications, processes or initiatives which are of a confidential nature and have been disclosed to the Supplier by TFS and any other confidential information concerning TFS's business, finances, affairs, products, services, suppliers or customers which the Supplier may obtain. The Supplier shall restrict disclosure and use of such confidential material and information to such of its employees and permitted agents or sub-contractors as need to know the same for the purpose of performing the Supplier's obligations to TFS and shall ensure that such employees, agents or sub-contractors are subject to equivalent obligations of confidentiality as bind the Supplier.
- 10.2 The Supplier shall not make or procure or permit any other person to make any press or public announcement or publicity concerning any aspect of the Contract without TFS's prior written consent.

11 General

- 11.1 The Contract and each Order is personal to the Supplier and the Supplier may not assign, sub-contract or otherwise delegate any of its rights or obligations under the Contract or any Order to any third party without TFS's prior written consent. TFS may assign, sub-contract or otherwise delegate any of its rights or obligations under the Contract or any Order to any third party.
- 11.2 No waiver by TFS of any breach of the Contract by the Supplier shall be binding unless confirmed in writing by an authorised representative of TFS or an authorised agent on behalf of TFS nor shall it be considered as a waiver of any subsequent breach of the same or any other provision.
- 11.3 If any provision of these Terms or the Contract is held by any court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Terms or the Contract and the remainder of the provision in question shall not be affected.
- 11.4 None of the provisions of the Contract are for the benefit of or may be enforced by any third party.
- 11.5 The Supplier shall comply with all applicable laws, statutes, regulations and codes relating to anti-bribery, anti-corruption, anti-slavery, anti-human trafficking and data protection including the Bribery Act 2010, the Modern Slavery Act 2015 and the Data Protection Act 1998 and shall at all times maintain and enforce its own adequate and compliant policies and procedures related to such matters and the Supplier shall not engage in any activity, practice or conduct which may constitute or cause TFS to commit a breach of or an offence under any laws, statutes, regulations, codes, policies or procedures.
- 11.6 The Supplier shall comply with all applicable policies and procedures (as the same may be amended, updated or replaced from time to time) which are relevant to the Supplier, the Goods and/or Services (including policies and procedures related to health and safety, the environment, security and any of the subject matter referred to in section 11.5) and which are either made available or accessible to the Supplier or notified or provided to the Supplier from time to time or on request.
- 11.7 In consideration of the payments due to the Supplier pursuant to the Contract, the Supplier hereby assigns to TFS by virtue of and upon entering into the Contract (where appropriate, by way of present assignment of rights which arise in the future), with full title guarantee and free from all third party rights, all rights including intellectual property rights (if any) in all Goods, Services and Deliverables which are designed, developed or created for TFS pursuant to or in connection with the Contract and the products and results of the Services.
- 11.8 If and to the extent that it is not possible or reasonably practicable for TFS to exercise its rights under the Contract or to make full use of the Goods, Services or Deliverables without the use of any rights including intellectual property rights of the Supplier, other than those referred to in section 11.7, in consideration of the payments due to the Supplier pursuant to the Contract, the Supplier hereby grants to TFS a non-exclusive, irrevocable, royalty-free and perpetual licence to use such rights as TFS may require for that purpose.

- 11.9 The Supplier will use all reasonable endeavours to employ or use local labour or personnel (with reference to the location of the Delivery Address) in connection with the supply of Goods and/or Services to TFS wherever it is reasonably practicable and lawful to do so.
- 11.10 Notwithstanding any other provisions, TFS's rights under the Contract are in addition to (not in place of) all statutory rights implied in favour of TFS.
- 11.11 The Contract shall be governed by the laws of England, and the Supplier agrees to submit to the exclusive jurisdiction of the English courts.