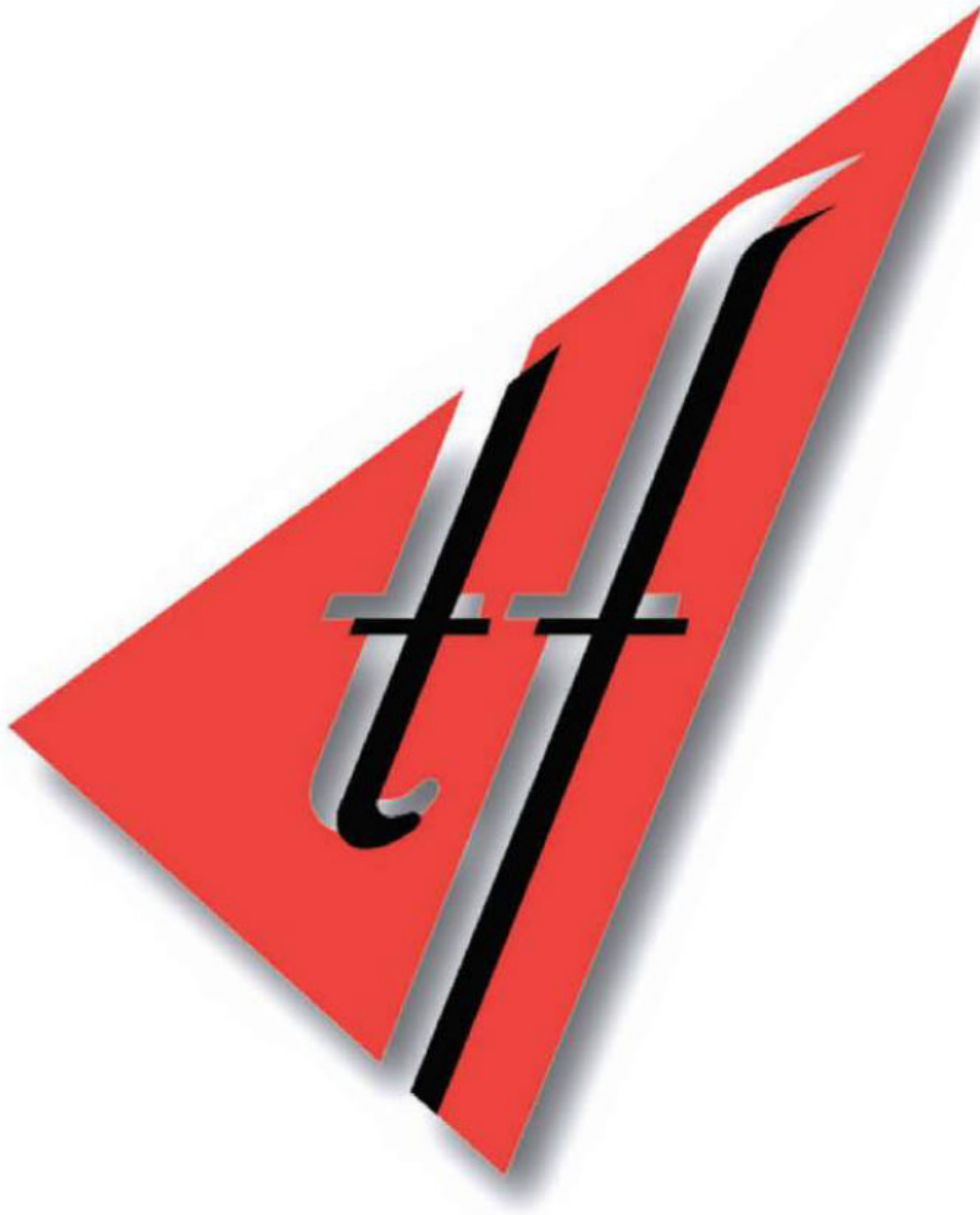


TF Automation

Best Solutions



Terms & Conditons

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TIME FACTORS LIMITED - TERMS AND CONDITIONS OF BUSINESS

PLEASE NOTE THE LIMITATION OF LIABILITY PROVISIONS IN CONDITION 13.

1. DEFINITIONS & INTERPRETATION

1.1 In these terms and conditions, the following words and phrases shall have the meanings ascribed to them below:

“**Bespoke Goods**” means any goods to be manufactured or modified by TFL in accordance with the Quotation and User Requirements Specification;

“**Contract**” means the contract between TFL and the Customer relating to the supply of Goods, incorporating the Quotation, the User Requirements Specification and these terms and conditions;

“**Credit Facility**” means the extension of a line of credit by TFL to the Customer such extension being evidenced by a letter from TFL to the Customer confirming the same;

“**Customer**” means the company, person or party detailed in the Quotation;

“**Factored Goods**” means the goods detailed in the Quotation;

“**Factory Acceptance Date**” means the date following Practical Completion on which the Bespoke Goods have completed the Factory Acceptance Tests and are deemed to have been accepted by the Customer as completed;

“**Factory Acceptance Tests**” means the tests and/or test criteria detailed in the Quotation and/or User Requirements Specification;

“**Payment Terms**” means in relation to the supply of Bespoke Goods, the payment terms detailed in the Quotation relating to the payment of the Price;

“**Practical Completion Date**” means the date on which the Bespoke Goods are (in the reasonable opinion of TFL) completed and ready for testing in accordance with the Factory Acceptance Tests;

“**Price**” means the price payable for the Goods, as specified in the Quotation.

“**Goods**” means the Bespoke Goods and/or Factored Goods;

“**Quotation**” means the oral or written quotation, confirming details of the Contract.

“**Sales Literature**” means all brochures, drawings, descriptive matter, specifications and websites used by TFL to advertise and promote the Goods;

“**TFL**” means Time Factors Limited (company number 1240150) trading as TF Automation whose registered office is at Hillam Road, Canal Road, Bradford, West Yorkshire, BD2 1QN;

“**User Requirements Specification**” means (if any) the specification detailing the intended functionality of the Bespoke Goods, which specification may be included or referenced in the Quotation.

1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 Words in the singular include the plural and in the plural include the singular.

1.4 A reference to one gender includes a reference to the other gender.

1.5 Condition headings do not affect the interpretation of these terms and conditions.

2. CONTRACT FORMATION

2.1 The existence of the Contract may be evidenced by the occurrence of: (i) signature of the Quotation by the Customer; (ii) TFL issuing an acknowledgement of order to the Customer; (iii) the Customer issuing a purchase order to TFL; (iv) the delivery of the Products; or (v) any evidence of a general course of dealing between TFL and the Customer.

2.2 If a Contract has not been formed within thirty (30) days of the date of the issuance of the Quotation, no Contract shall be capable of formation, unless otherwise agreed in writing and signed by a director of TFL.

3. ENTIRE AGREEMENT AND SCOPE

3.1 Subject to any variation under condition 3.4 the Contract shall be on these terms and conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, communication, specification or other document).

3.2 No terms or conditions endorsed on, delivered with or contained in the Customer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.

3.3 All Sales Literature is issued or published for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract which is not a sale by sample.

3.4 Any variation to these terms and conditions, the Quotation, User Requirements Specification or the Price shall have no effect unless

expressly agreed in writing and signed by a director of TFL and the Customer.

3.5 The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of TFL which is not set out in the Contract.

4. SUPPLY

4.1 In consideration of the Customer paying the Price, TFL shall perform the Contract strictly in accordance with these terms and conditions.

4.2 Any dates specified by TFL for performance of the Contract are intended to be an estimate and time for performance shall not be made of the essence by notice. Performance shall be within a reasonable time.

5. PRICE

5.1 If the Quotation does not state a currency, the Price shall be deemed to be in UK £s (pounds sterling) and unless expressly stated otherwise, shall exclude VAT (where applicable) at the applicable current rate and delivery charges.

5.2 The Price may be varied without notice to the Customer, to reflect:

5.2.1 any third party labour and material costs incurred by TFL, between the issuance of the Quotation and:

5.2.1.1 the delivery date in the case of Factored Goods; or
5.2.1.2 the Factory Acceptance Date in the case of Bespoke Goods.

5.2.2 in the case of Factored Goods, any modification (including cutting) to the same;

5.2.3 in the case of Goods which are imported into the United Kingdom, the cost to which TFL is put by reason of a variation in the rate of exchange of the pound sterling against the applicable foreign currency.

5.3 Every effort is made by TFL to ensure that the Price detailed in the Quotation is accurate. Notwithstanding that the Contract has been formed, TFL shall have the right to terminate the Contract where the Goods have been sold at the incorrect price. TFL will always give the Customer the option of reconfirming the Contract at the correct price.

6. GENERAL PAYMENT TERMS

6.1 The Customer shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by TFL to the Customer.

6.2 No payment shall be deemed to have been received until TFL has received cleared funds.

6.3 Time for payment shall always be of the essence.

6.4 If the Customer fails to pay TFL any sum due pursuant to the Contract, without prejudice to any other right or remedy available to TFL:

6.4.1 the Customer shall be liable to pay interest to TFL on such sum from the due date for payment at the annual rate of 8% above the base lending rate from time to time of the Bank of England, accruing on a daily basis until payment is made, whether before or after any judgment. TFL reserves the right to claim interest costs and compensation under the Late Payment of Commercial Debts (Interest) Act 1998

6.4.1 TFL may in relation to any Bespoke Goods, deactivate the same;

6.4.2 TFL may exercise a general lien on all goods and property belonging to the Customer in its possession, exercisable in respect of all sums lawfully due from the Customer to the Supplier. The Supplier shall be entitled, on the expiry of fourteen (14) days' notice in writing, to dispose of such goods or property in such manner and at such price as it thinks fit and to apply the proceeds of such sale towards the amount outstanding.

6.4 This condition 6 shall apply to the Contract, irrespective of conditions 7, 8 or 9.

7. SPECIFIC PAYMENT TERMS FOR FACTORED GOODS (WITH CREDIT FACILITY)

7.1 This condition 7 shall apply if the Contract relates to the supply of Factored Goods with a Credit Facility.

7.1 TFL shall issue invoices for payment of the Price at the time of delivery of the Factored Goods.

7.2 The Customer shall pay any invoice within thirty (30) days of its receipt.

8. SPECIFIC PAYMENT TERMS FOR FACTORED GOODS (NO CREDIT FACILITY)

8.1 This condition 8 shall apply if the Contract relates to the supply of Factored Goods without a Credit Facility.

8.2 The Customer shall pay the Price in full, prior to the Factored Goods being delivered.

9. SPECIFIC PAYMENT TERMS FOR BESPOKE GOODS

- 9.1 This condition 9 shall apply if the Contract relates to the supply of Bespoke Goods.
- 9.2 TFL shall issue invoices and the Customer shall pay such invoices in accordance with the Payment Terms.
- 9.3 If the Bespoke Goods are placed into live operational use (either by the Customer or TFL at the request of the Customer) the Payment Terms shall no longer apply, in which case the Customer shall immediately pay to TFL, any outstanding part of the Price.
- 9.4 If the Factory Acceptance Tests are not commenced within fourteen (14) days of the Practical Completion Date due to circumstances beyond the reasonable control of TFL (including without limitation a failure by the Customer to supply test components), the Payment Terms shall no longer apply, in which case:
- 9.3.1 the Customer shall ensure that at least ninety five percent (95%) of the Price is paid TFL within seven (7) days; and
- 9.3.2 the Customer shall pay the remaining five percent (5%) of the Price within seven (7) days of the Factory Acceptance Date.

10. RISK & RETENTION OF TITLE

- 10.1 The Goods are at the risk of TFL, until delivery, whereupon risk shall transfer in full to the Customer.
- 10.2 Full legal and beneficial title and ownership of the Goods shall pass to the Customer once TFL has received in full (in cash or cleared funds) the Price due to it in respect of:
- 10.2.1 the Contract; and
- 10.2.2 all other sums which are or which become due to TFL from the Customer under any other contract or account.
- 10.3 Until title and ownership of the Goods has passed to the Customer, the Customer shall:
- 10.3.1 hold the Goods on a fiduciary basis as TFL's bailee;
- 10.3.2 store the Goods (at no cost to TFL) separately from all other Goods of the Customer or any third party in such a way that they remain readily identifiable as the property of TFL;
- 10.3.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and
- 10.3.4 maintain the Goods in satisfactory condition and keep them insured on TFL's behalf for their full price against all risks to the reasonable satisfaction of TFL. On request the Customer shall produce the policy of insurance to TFL.
- 10.4 The Customer's right to possession of the Goods shall terminate immediately if title and ownership of the Goods has not already passed in accordance with condition 10.2 and:
- 10.4.1 the Customer (being a person) has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors; or
- 10.4.2 the Customer (being a body corporate) shall have a receiver or administrative receiver appointed over it or over any part of its undertaking or assets or shall pass a resolution for winding-up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or shall become subject to an administration order or shall enter into any voluntary arrangement with its creditors or shall cease or threaten to cease to carry on business.
- 10.5 TFL shall be entitled to recover payment of the Price, notwithstanding that legal and beneficial ownership and title of the Goods has not passed to the Customer.
- 10.6 The Customer grants TFL, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Customer's right to possession has terminated, to recover them.

11. DELIVERY

- 11.1 Unless otherwise agreed in writing, delivery of the Goods shall be made to the address specified in the Quotation.
- 11.2 Any dates specified by TFL for delivery of the Goods are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within a reasonable time.
- 11.3 If delivery is made at the premises of TFL (ex works), the Customer shall take delivery of the Goods within two (2) days of TFL giving it notice that the Goods are ready for delivery.
- 11.4 If for any reason the Customer fails to accept delivery of any of the Goods when they are ready for delivery, or TFL is unable to deliver the Goods on time because the Customer has not provided appropriate instructions, documents, licences or authorisations:
- 11.4.1 risk in the Goods shall pass to the Customer (including for loss or damage caused by TFL's negligence);
- 11.4.2 the Goods shall be deemed to have been delivered; and

- 11.4.3 TFL may store the Goods until delivery, whereupon the Customer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

- 11.5 If TFL is requested to re-deliver the Goods following a failed delivery in accordance with condition 11.4, TFL reserves the right to make an additional charge for such re-delivery.
- 11.6 TFL may deliver the Goods by separate instalments. Each separate instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Customer to repudiate or cancel any other Contract or instalment.
- 11.7 The Customer shall be required to notify TFL of any delivery shortages within forty eight (48) hours of delivery. If the Customer fails to notify TFL of any such shortages within this time scale, the Customer shall be deemed to have accepted delivery of all the Goods.

12. QUALITY

- 12.1 TFL warrants that for a period of twelve (12) months from the date of their delivery, any Factored Goods shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979, the Customer having satisfied themselves that such Factored Goods are suitable for their own requirements.
- 12.2 TFL warrants that for a period of twelve (12) months or two thousand (2000) hours of live operational use (whichever occurs first) from any Bespoke Goods shall the Factory Acceptance Date:
- 12.2.1 be of satisfactory quality within the meaning of the Sale of Goods Act 1979;
- 12.2.2 have that functionality which is contemplated by the User Requirements Specification (if any);
- 12.3 TFL further warrants that the Bespoke Goods shall have an appearance which is similar (but not identical) to that detailed within any general assembly drawing prepared by TFL from time to time.
- 12.4 TFL shall not be liable for a breach of any of the warranties in conditions 12.1, 12.2 or 12.3 unless:
- 12.4.1 the Customer gives TFL written notice of the breach within seven (7) days of the date of the breach coming to its attention; and
- 12.4.2 TFL is given a reasonable opportunity after receiving such notice to examine the Goods.
- 12.5 TFL shall not be liable for a breach of any of the warranties in conditions 12.1, 12.2 or 12.3 if:
- 12.5.1 the Customer makes any further use of the Goods after giving notice pursuant to condition 12.4.1; or
- 12.5.2 the defect arises because the Customer fails to follow the oral or written instructions of TFL or fails to store, use or maintain the Goods in accordance with good industry practice; or
- 12.5.3 the Customer alters or repairs the Goods without the prior written consent of TFL.
- 12.6 Subject to conditions 12.3 and 12.4, if any of the Goods do not conform with the warranties in conditions 12.1 and 12.2, TFL shall at its option repair or replace such Goods (or the defective part) or refund that part of the Price at the pro rata Contract rate provided that, if TFL so requests, the Customer shall, at TFL's expense, return the Goods or the part of such Goods which is defective to TFL.
12. If TFL complies with condition 12.6, it shall have no further liability for any breach of warranty under conditions 12.1 and 12.2.

13. LIMITATION OF LIABILITY

- 13.1 The following provisions set out the entire financial liability of TFL (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- 13.1.1 any breach of these terms and conditions;
- 13.1.2 any use made or resale by the Customer of any Goods, or of any product incorporating any of the Goods;
- 13.1.3 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 13.2 Nothing in these conditions excludes or limits the liability of TFL:
- 13.2.1 for death or personal injury caused by TFL's negligence;
- 13.2.2 under section 2(3), Consumer Protection Act 1987;
- 13.2.3 for any matter which it would be illegal for TFL to exclude or attempt to exclude its liability;
- 13.2.4 for fraud or fraudulent misrepresentation.
- 13.3 Subject to condition 13.2 and condition 13.3:
- 13.3.1 TFL's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Price paid under the Contract;
- 13.3.2 TFL shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss

of business, loss of chance, depletion of goodwill and similar loss), costs, damages, charges or expenses.

- 13.4 Except as otherwise provided for under these terms and conditions, all other warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

14. TERMINATION

- 14.1 The Contract may be terminated by TFL or the Customer with immediate effect if the other party:
- 14.1.1 is in material breach of the terms and conditions of the Contract and the breach is not capable of remedy; or
 - 14.1.2 is in material breach of the terms and conditions of the Contract and the breach is capable of remedy and that other party shall have failed to remedy that breach within thirty (30) days of notice, specifying the breach and requiring its remedy; or
 - 14.1.3 condition 10.4 applies.
- 14.2 Termination of the Contract (howsoever occasioned) shall not affect any accrued rights or liabilities of either party hereunder or at law, nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or to continue in force on or after such termination.
- 14.3 All payments payable to TFL under the Contract shall become due immediately upon its termination.

15. UNFORSEEABLE DELAYS

- 15.1 TFL reserves the right to defer the performance of the Contract (without liability to the Customer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of TFL including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

16. REGULATORY COMPLIANCE

- 16.1 If a licence, consent or permission of any government or other authority is required for the acquisition, carriage or use of the Goods by the Customer, the Customer shall obtain the licence or consent at its own expense and if requested/necessary produce evidence of it to TFL on demand. Failure to obtain any licence or consent does not entitle the Customer to withhold or delay payment of the Price. Any additional expenses or charges incurred by TFL resulting from such failure shall be paid by the Customer.
- 16.2 The Customer shall be responsible for arranging for the testing and inspection of the Goods at TFL's premises before shipment. TFL 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.
- 16.3 It is the responsibility of the Customer to ensure that if the Goods are incorporated in any other machinery, such machinery is appropriately certified for operational use.

17. INTELLECTUAL PROPERTY RIGHTS

- 17.1 Any general assembly drawing, together with any other plans, drawings, specifications and samples submitted by TFL are the property of TFL, which are to be used between TFL and the Customer only. The intellectual property rights, including (without limitation) any copyright, design or patent rights in the same and in the Goods, if designed or adapted by TFL, shall remain with TFL and shall not be used or copied by the Customer save solely in connection with the use by the Customer of those Goods.
- 17.2 Plans, drawings and specifications prepared or supplied by the Customer shall remain the property of the Customer.
- 17.3 TFL may write or affix its name to the Goods if the copyright, design rights, patents or trademarks of TFL are embodied in its design.
- 17.4 TFL shall be free to exploit its intellectual property rights in any Goods designed or adapted by it unless the Customer has paid an additional fee to be agreed for the exclusive use of such Goods.
- 17.5 If the Goods are to be manufactured or any process is to be applied to the Goods by TFL in accordance with a specification submitted by the Customer, the Customer shall indemnify TFL against all loss, damage and expenses awarded against or incurred by TFL in connection with or paid or agreed to be paid by TFL in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from TFL's use of the Customer's specification.

18. EXPORT OF GOODS

- 18.1 The Goods may be supplied by TFL for export from the United Kingdom. The Customer shall comply with all applicable legislation

and regulations and payment of any duties, import taxes or other costs of import. If TFL notifies the Customer that export of the Goods into a country is prohibited under the TFL export licence, the Customer shall not supply or offer the Goods for supply into or within that country.

- 18.2 The Customer shall obtain all licences, authorisations and approvals required for export of Goods from the United Kingdom or import into any other country and shall indemnify TFL against any liability in relation to the Customers breach of any of the provisions of this condition 18.

19. DISPUTE RESOLUTION

- 19.1 In the event of any bona fide dispute or difference arising between the parties in connection with the Contract (excluding any dispute relating to non payment of Charges which have been properly incurred), the parties shall in accordance with this condition 19, attempt to resolve such dispute or difference in good faith.
- 19.2 If the parties are unable to resolve such dispute or difference within fifteen (15) days of initial discussions between the parties taking place, either party may request the other in writing that the matter be referred to senior representatives of the parties with authority to settle the dispute, who shall attempt to resolve the dispute within thirty (30) days of the written request to do so.
- 19.3 If the dispute or difference is not resolved as a result of a meeting of the senior representatives of the parties pursuant to condition 19.2 above, or if no meeting of the senior representatives occurs within the prescribed time periods set out in that condition, either party may request the Centre for Dispute Resolution ("CEDR") in writing to appoint an independent expert.
- 19.4 If either party so requests CEDR to appoint an independent expert, such party must instruct CEDR to ensure that the expert:
- 19.4.1 acts as an expert and not an arbitrator;
 - 19.4.2 affords the parties the opportunity within reasonable time limits to make representations to him;
 - 19.4.3 informs each party of the representations of the other;
 - 19.4.4 affords each party the opportunity within reasonable time limits to make submissions to him on the representations of the other; and
 - 19.4.5 notifies the parties of his decision, with reasons as quickly as practicable.
- 19.5 The fees and expenses of the expert including the cost of his nomination shall be borne equally by the parties who shall bear their own costs as to the submission and determination of the dispute or difference by the expert, save as where otherwise directed by the expert.
- 19.6 The decision of the expert shall not be binding, but maybe relied upon by either party in any court proceedings should they arise.

20. GENERAL

- 20.1 TFL may assign the Contract or any part of it to any third party. The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of TFL.
- 20.2 Each right or remedy of TFL under the Contract is without prejudice to any other right or remedy of TFL whether under the Contract or not.
- 20.3 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 20.4 Failure or delay by TFL in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 20.5 Any waiver by TFL of any breach of, or any default under, any provision of the Contract by the Customer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
- 20.6 The parties to the 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.
- 20.7 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.