

1. Definitions and Interpretation

- 1.1 In these Conditions the following words and expressions have the following respective meanings:-
 - 1.1.1 "Conditions" means these terms and conditions of purchase of Hardide.
 - 1.1.2 "Confidential Information" means, in relation to a party, all and any knowledge, data, trade secrets or other information of that party or any other person in whatever form disclosed directly or indirectly by that party to the other party. For the avoidance of doubt, Hardide's intellectual property rights, insofar as it comprises any knowledge, data, trade secrets or other information shall be considered to be Confidential Information of Hardide.
 - 1.1.3 "Contract" means any contract for the purchase of the Goods or Services which incorporates the Conditions;
 - 1.1.4 "Contract Documentation" means all documents which form part of, constitute or evidence the Contract, including these Conditions and any quotations, offers, Orders, acknowledgements of order, acceptances and specifications of Hardide or the Supplier and any documents referred to in any of them;
 - 1.1.5 "Delivery Address" means the address where the Goods are to be delivered or provided by the Supplier as stated in the Contract Documentation or if not stated such premises of Hardide in the United Kingdom as Hardide shall notify to the Supplier;
 - 1.1.6 "Delivery Date" means the date or the final date by which the Goods must be delivered, as specified in the Contract Documentation, or if no such date is specified the Delivery Date shall be the date of expiry of a reasonable period following the formation of the Contract in accordance with Condition 2.3;
 - 1.1.7 "Goods" means all goods including all any and all ancillary items to be sold and supplied by the Vendor to Hardide in accordance with the Contract and as identified in the Contract Documentation, including any goods or items supplied by way of making good, repair or replacement.
 - 1.1.8 "Hardide" means the company purchasing the Goods or the Services, being either Hardide Coatings Limited, Hardide Aerospace Coatings Limited, Hardide Coatings Inc. or Hardide PLC, as more particularly specified in the Order;
 - 1.1.9 "Order" means the order placed by Hardide with the Supplier for the Goods or Services;
 - 1.1.10 "Price" means all sums payable by Hardide to the Supplier in connection with the Contract, as specified in the Contract Documentation or otherwise notified to the supplier;
 - 1.1.11 "Services" means all services, including all any materials supplied as part of or all ancillary to the Services, to be performed by the Supplier to Hardide in accordance with the Contract and as identified in the Contract Documentation, including any services or materials supplied by way of making good, repair or replacement.
 - 1.1.12 "Supplier" means the person, firm or company supplying the Goods or Services to Hardide; and
 - 1.1.13 "Working Day" means any day except Saturday, Sunday or any bank, customary, public or statutory holiday.
 - 1.1.14 "Counterfeit Part" An unauthorized copy, imitation, substitute, or modified part (e.g., material, part, component), which is knowingly misrepresented as a specified genuine part of an original or authorized manufacturer.
NOTE: Examples of a counterfeit part can include, but are not limited to, the false identification of marking or labeling, grade, serial number, date code, documentation, or performance characteristics.
- 1.2 In these Conditions, unless otherwise stated, references to:
 - 1.2.1 "the parties" are references to Hardide and the Supplier;
 - 1.2.2 "a third party" is reference to a person who is not a party to the Contract;
 - 1.2.3 "persons" shall include references to individuals, companies, corporations, partnerships and unincorporated associations;
 - 1.2.4 the singular shall include the plural and vice versa;
 - 1.2.5 "writing" includes facsimile or e-mail and the expression "written" shall be construed accordingly;
 - 1.2.6 "statute", "statutory instrument", "regulation", "order" or "licence" are references to that statute, statutory instrument, regulation, order or licence as substituted, varied or re-enacted from time to time; and
 - 1.2.7 The words "include" and "including" shall be construed without limitation.
- 1.3 The headings in these Conditions are for convenience only and shall not affect the construction of these.

2. The Contract

- 2.1 The Contract shall be governed by these Conditions and any terms or conditions proffered by the Supplier are hereby excluded from the Contract.
- 2.2 No Order shall be deemed valid unless submitted on Hardide's official order form current on the date on which the Order is placed.
- 2.3 Each Order constitutes an offer by Hardide to buy Goods or Services subject to these Conditions and the Order shall be deemed accepted, and the Contract formed, once the Supplier has, either expressly by giving notice of acceptance or impliedly by commencing work pursuant to the receipt by it of the Order, accepted the Order.
- 2.4 Hardide shall be entitled to withdraw an Order at any time prior to the acceptance of the Order by giving notice to the Supplier.
- 2.5 In the event of inconsistency between these Conditions and anything appearing on the face of the Order or contained in the other Contract Documentation, the Order shall prevail over these Conditions, and the other Contract Documentation shall prevail over the Order and these Conditions.
- 2.6 Each Order shall be the subject of a separate Contract.
- 2.7 No amendment to the Order shall be valid unless it is contained in an Order amendment issued by the Purchaser.

3. Supply of Goods

- 3.1 The Supplier agrees to sell, deliver and provide to Hardide, and Hardide agrees to purchase and accept delivery of and pay for, the Goods in accordance with and subject to the Contract.
- 3.2 Hardide shall be entitled at any time to change the quantity and the specification of the Goods, the Delivery Address and the Delivery Date. If such change would result in additional cost or expense to the Supplier in providing the Goods or would delay delivery of the Goods, a reasonable adjustment may be made by agreement to the Price or the Delivery Date, to the extent necessary to reflect the additional costs or delay, but not further or otherwise.
- 3.3 The Goods shall in all respects:
 - 3.3.1 conform as to quality, quantity, design and description with the particulars of the Contract Documentation;
 - 3.3.2 be of satisfactory quality and free from defects and the Contract shall be carried out using materials of good quality, in a good and workmanlike manner and with all due care;
 - 3.3.3 be fit for all common purposes for which Goods of the kind in question are commonly supplied and if, expressly or by implication, the purposes for which Hardide required the Goods have been made known to the Supplier, shall be fit for those purposes;
 - 3.3.4 correspond to any approved samples, patterns or prototypes;
 - 3.3.5 be adequately packed, secured and labelled at the Supplier's expense to protect against all risks of damage or deterioration;
 - 3.3.6 comply with all relevant requirements of any statutes or regulations applicable in the UK and the European Union to goods of the kind in question and in force at the Delivery Date; and
 - 3.3.7 conform with all descriptions applied thereto by the Supplier or otherwise appearing in supporting literature supplied in respect of the Goods.
- 3.4 The Supplier shall:
 - 3.4.1 supply in connection with the Goods, on or before delivery of the Goods, such documents and information as shall be stated in the Contract Documentation together with such of the following:- (i) delivery and advice notes; (ii) certificates of conformity; (iii) instructions as to handling, storage, use, care, maintenance and safety; (iv) warning labels dealing with any hazards or threats to safety; (v) proof as to the country of origin, the approval number of the establishment and the date of production; and (vi) such other documentation and information as may be relevant or required by law;
 - 3.4.2 (as a continuing obligation surviving completion or earlier termination of the Contract) promptly pass on to Hardide all future information coming to the attention of the Supplier concerning the handling, storage, use and safety of the Goods; and
 - 3.4.3 prior to delivery, notify Hardide of any circumstances likely to affect the quality of Goods and issue appropriate instructions as to the storage, handling and use of Goods in order to ensure the preservation of the Goods. Such details and instructions shall form part of the description of the Goods.
- 3.5 The Supplier shall ensure that the Contract is performed in conformity with the quality requirements

of its ISO9001 series registration or equivalent industry sector-specific requirements. Where the Supplier additionally holds AS/EN9100 series registration, it shall ensure that the Order is carried out in conformity with the quality requirements of that registration.

- 3.6 The Supplier shall ensure that all records of manufacture, supply, inspection or test relating to the Contract are retained and safely stored for a minimum of 10 years.

4. Delivery

- 4.1 The Supplier shall despatch the Goods carriage paid by the Supplier to the Delivery Address by the Delivery Date in strict accordance with the Contract. Time for delivery of the Goods shall be of the essence of the Contract.
- 4.2 Hardide may from time to time defer the Delivery Date without any liability for storage or other charges from the Supplier. In such case the Supplier shall not be entitled to submit an invoice for the Goods until delivery has taken place.
- 4.3 Unless the Vendor indicates on an advice note accompanying the Goods that packing cases, crates, containers, barrels or other packing materials are (a) chargeable and returnable for credit or (b) nonchargeable but returnable, Hardide shall not be requested to pay for or return to the Vendor any such materials.
- 4.4 Unless otherwise stated delivery is to be made to Hardide's premises between the hours of 8.00am and 4.30pm on Monday to Friday inclusive, bank and public holidays excepted. No deliveries can be accepted outside these hours.
- 4.5 If at any time the Supplier has reason to believe that the deliveries of the Goods may not be made at the times specified in the Contract Documentation, the Supplier shall immediately notify Hardide setting out the cause for the anticipated delay. Any oral communication shall be immediately confirmed in writing. If delivery is delayed, the Supplier shall at its own cost send the Goods at such time to such place and in such manner as instructed by Hardide, and the Supplier shall, if so requested by Hardide and without prejudice to the other rights and remedies of Hardide, reimburse Hardide for all losses and damages reasonably incurred as a result of such delay.
- 4.6 If the Supplier fails to deliver the Goods in accordance with Condition 4.1 then, without prejudice to Hardide's rights for breach of the Contract Hardide may:
 - 4.6.1 reject the Goods delivered and terminate the Contract as a whole. In this event, without prejudice to Hardide's other remedies, the Supplier shall promptly collect any Goods which have been delivered;
 - 4.6.2 accept delivery of those Goods which have been delivered, and terminate the Contract in respect of the undelivered Goods; or
 - 4.6.3 accept those Goods which have been delivered and specify a further Delivery Date by which the remainder of the Goods must be delivered in respect of which the provisions of this Condition 4 shall continue to apply.

5. Acceptance

- 5.1 Hardide shall not be deemed to have accepted any part of the Goods until after it has actually inspected the Goods and ascertained that they are in accordance with the Contract or, where the Goods have not been inspected, until a reasonable time has elapsed since the Goods have been put into use. A reasonable time shall be considered to be at least thirty (30) Working Days. No provision of law deeming when acceptance of the Goods is to have taken place shall apply.
- 5.2 Until Hardide has accepted the Goods, if any Goods are found not to be in conformity with the Contract, Hardide shall be entitled to:
 - 5.2.1 reject the Goods delivered, treat the Contract as repudiated by the Supplier and terminate the Contract as a whole;
 - 5.2.2 reject the Goods delivered, require the Supplier to deliver replacement Goods conforming with the Contract by a further Delivery Date specified by Hardide and treat the Contract as repudiated by the Supplier in respect of any remaining undelivered Goods; or
 - 5.2.3 accept those Goods which have been delivered, require the Supplier to repair, rectify or pay the reasonable cost of repairing or rectifying the Goods and treat the Contract as repudiated by the Supplier in respect of any remaining undelivered Goods.
- 5.3 Any acceptance by Hardide of Goods not in conformity with the Contract shall be without prejudice to any rights that Hardide may have against the Supplier, and Hardide shall not be regarded, as the result of a deemed or express acceptance of the Goods, as

- having agreed that the Goods in question were supplied in accordance with the requirements of the Contract
- 5.4 Hardide's right to reject any Goods shall not be affected by the resale of any Goods
- 5.5 Unless otherwise specifically agreed in writing, all Supplies shall be new.
The Supplier shall ensure that items delivered under the condition of the purchase order shall be fully compliant as per the requirements and specifications of the detailed and inferred conditions of the purchase order. Nothing shall be delivered under concession unless previously agreed in writing with the purchaser. Anything delivered under concession must have written and documented reference to acceptance by purchaser as part of the delivery documentation.
- 5.6 It is the responsibility of the supplier to inform the purchaser of any changes to manufacturing location or process that may affect the quality of product previously delivered under purchase order / contract to be delivered or potentially delivered. If the supplier is in receipt of knowledge / information which could potentially affect the quality of product subject to purchase orders or enquiries between the supplier and purchaser he must contact the purchaser and obtain organisations approval for the disposition of product.
- 5.7 Only new and authentic Parts and materials are used in Goods required to be delivered to Hardide and that such Goods contain no Counterfeit Parts. No other Part other than a new and authentic Part shall be used unless approved in advance in writing by Hardide's duly authorised representative. To further mitigate the possibility of the inadvertent use of Counterfeit Parts, Supplier shall only purchase authentic parts/components directly from original equipment manufacturers ("OEMs") and original component manufacturers ("OCMs") or through the OEM's/OCM's authorised distributors. Purchase of Parts from independent distributors is not authorised unless first approved in writing by Hardide's duly authorised representative. Seller's system for the detection and avoidance of Counterfeit Parts and Suspect Counterfeit Parts, including policies and procedures for training personnel, designing and maintaining systems to mitigate risks associated with parts obsolescence, making sourcing decisions, developing lists of trusted and non-trusted suppliers, flowing down requirements to subcontractors and suppliers, inspecting and testing parts, reporting and quarantining Counterfeit Parts and Suspect Counterfeit Parts, Should Supplier become aware of a confirmed or suspect Counterfeit Part that, by any means, has been delivered to Hardide, or acquired for Hardide's Order whether or not delivered to Hardide, Supplier shall notify Hardide in writing as soon as possible
- 6. Passing of Risk and Title**
- 6.1 Risk of loss of or damage to the Goods shall pass to Hardide upon the later of (i) physical delivery of the Goods to Hardide and (ii) the completion of any Services which the Supplier is required under the Contract to perform in respect of the Goods following delivery.
- 6.2 Title to the Goods shall pass to Hardide as soon as the Goods have been appropriated to the Contract. Such passing of title shall not prejudice Hardide's right of rejection under Clause 5.
- 7. Services**
- 7.1 In respect of the Services, the Supplier hereby confirms in all respects that it shall:-
- 7.1.1 provide the Services with that degree of skill, care, diligence and prudence reasonably to be expected of an experienced and competent contractor engaged in similar activities under similar circumstances and conditions, in accordance with all methods, standards and practices customarily used in good and prudent industry practice or applying to any premises at which the Services are to be provided, using suitably qualified, experienced, skilled and competent persons, and in accordance with all applicable laws and its legal obligations;
- 7.1.2 ensure that persons are aware of their contribution to product or service conformity, their contribution to product safety and the importance of ethical behaviour.
- 7.1.3 perform and provide the Services to Hardide in accordance with the times for performance set out in the Contract or, if no times have been agreed, within a reasonable time;
- 7.1.4 co-operate with the Company and any appropriate third parties in all matters relating to the Services;
- 7.1.5 observe, and ensure that the Supplier's personnel observe, all health and safety rules and regulations,

- all relevant policies, rules (including site rules and regulations), procedures and standards of Hardide and any appropriate third parties. Hardide reserves the right to refuse the Supplier (or any of the Supplier's personnel) access to its premises at any time in the event of any failure by the Supplier or any person under the direction or control of the Supplier to comply with any such policies, rules (including site rules and regulations), procedures and standards or where any of the Supplier's personnel have behaved inappropriately (in the reasonable opinion of Hardide) whilst on-site;
- 7.1.6 comply with all the requirements of the Environmental Protection Act 1990 and any other applicable legislation governing the controlled tipping of waste;
- 7.1.7 notify Hardide as soon as it becomes aware of any environmental or health and safety hazards or issues which arise in relation to the provision of the Services; and
- 7.1.8 1.2.6 in the case of an EU supplier, notify the Purchaser if it is or when it becomes, or if it ceases to be, an Authorised Economic Operator.
- 7.2 In respect of any Services to be provided, the Supplier shall:
- 7.2.1 unless stated in the Contract, provide all equipment and other facilities necessary for the performance of the Services and shall provide all operating and support services necessary for carrying out the Services;
- 7.2.2 procure the availability of the Supplier's personnel to provide the Services on such days and times as Hardide may require;
- 7.2.3 if requested in writing by Hardide, immediately remove any person used by the Supplier in the performance of the Services who in the reasonable opinion of Hardide is incompetent, abusive or guilty of misconduct or failure to comply with any site rules and regulations; and
- 7.2.4 obtain and at all times maintain all necessary licences and consents and comply with all relevant legislation standards and regulations, including but not limited to, those relating to health, safety and environment, in relation to the provision of the Services and any installation of any Goods or other equipment by the Supplier.
- 7.2.5 not provide any Supplies which are intrinsically hazardous to life or harmful to the environment, without appropriate arrangements being agreed with the Purchaser in advance in writing.
- 7.2.6 ensure that waste and surplus materials and the like arising from any Supplies are not deposited on any area other than a public or private disposal facility controlled or recognised by the relevant Local Authority (and, where applicable, after having satisfied any EU duties, credit the Purchaser with any relevant income arising from the surplus materials).
- 7.3 In respect of any Services to be provided, the Supplier shall:
- 7.3.1 obtain, maintain and observe all regulatory approvals required for the provision of the Supplies, including EU customs authorisations;
- 7.3.2 as the Supplies may be exported, re-exported or transferred by the Purchaser, notify the Purchaser of any restrictions that may exist in respect of EU customs;
As the Supplies may be exported, re-exported, notify the Purchaser of any restrictions that may exist in respect of UK export regulations and/or ITAR or EAR or any other US or other foreign Government regulations preventing such export, re-export or transfer by the Purchaser or confirm in writing that no such regulations apply.
- 7.4 The Supplier hereby agrees to comply with all applicable import and export control laws and regulations, including, but not limited to, the requirements of the Arms Export Control Act, 22 USC 2751-2794, the International Traffic in Arms Regulations (ITAR), and the Export Administration Act, 50 USC app 2401-2420 (as amended), including the requirement for obtaining any and all export license(s) and/or agreement(s), if applicable.
For the avoidance of doubt a failure to comply with this requirement will constitute a material breach of the Order.
The Supplier shall notify the Purchaser immediately in writing if any of the subject matter of the Order (wholly or in part) is restricted by the above export regulations. A written answer is required in all cases, including a negative response.
A written notification is also required for any subsequent changes to the Supplies.
In the event any of the Supplies has ITAR content, please refer to 'Supplementary MAS Requirements related to the Provision and Supply of ITAR Controlled Items', reference PCL 045, Annex 1, a copy of which is

- available on request.
- 7.5 In the event that the Supplier processes any personal information on behalf of the Purchaser, the Supplier shall comply with the following requirements under the DPA:
- 7.5.1 The Supplier warrants that with regard to all such Personal Information, it shall only carry out those actions in respect of such information as are expressly authorised by the Purchaser.
- 7.5.2 The Supplier confirms that it shall implement appropriate technical and organisational measures in order to comply with the DPA and to protect Personal Information against unauthorised or unlawful processing, accidental loss, destruction or damage to Personal Information and having regard to the nature of the Personal Information which is to be protected.
- 7.6 Any drawings, information or documentation to be provided by the Supplier to the Purchaser shall be in one hard copy and one machine-readable copy in eproducible format unless otherwise agreed. The Purchaser may make copies of the same at no charge.
- 7.7 If the Supplier sells, provides or utilises any materials in an electronic form or format (including e-mails and computer programs) for or in connection with the provision of Supplies under the Order, the Supplier shall use its best endeavours to ensure that each such materials shall be free from viruses, bugs and logic bombs or other unauthorised, malicious or malignant code, program, routine or software protocol which disables, disrupts, restricts, slows down, impedes or otherwise obstructs the proper performance and operation of a computer system or any application run on such system.
- 8. Price and Payment**
- 8.1 The Price shall not be subject to any variation or adjustment unless an Authorised Representative agrees thereto in advance in writing.
- 8.2 The Price is exclusive of value added tax which shall be due at the rate ruling on the date of the Supplier's invoice to Hardide, provided that such invoice is a VAT invoice.
- 8.3 Unless the Contract Documentation expressly provides otherwise, the Price includes delivery of the Goods to the Delivery Address and the cost of packing, boxing, crating or any other packaging for the Goods.
- 8.4 Invoices shall be sent to Hardide marked for the attention of the individual or department, and to the address, specified in the Contract Documentation.
- 8.5 The Supplier shall ensure that one invoice shall be delivered for each Order and that all invoices specify the Order number and full details of the supply including description, quantity and unit price of Goods delivered.
- 8.6 Unless otherwise expressly provided in the Contract Documentation and subject to the invoice provided by the Supplier being correct and being received in accordance with Condition 8.3 and 4, Hardide shall pay the invoice within sixty (60) days of the date of which the Supplier's invoice is received by Hardide.
- 8.7 Interest shall be payable on any amount due from one party to the other under the Contract and remaining unpaid after the due date but excluding the date any amount due is actually received by the other party at a rate of 3% above the Bank of England base rate. The parties agree and acknowledge that such interest is a substantial remedy for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998.
- 8.8 Where the Price or any part of it is disputed by Hardide in good faith, Hardide will provide the Supplier with a statement of the amount in dispute. Hardide will pay any amount which is not in dispute and shall be entitled to withhold the balance pending resolution of the dispute.
- 8.9 Hardide shall be entitled to set off against any amount of the Price which it owes to the Supplier, any amount owed to Hardide by the Supplier under the Contract or under the terms of any other dealing between Hardide and the Supplier.

9. Inspection

- 9.1 The Supplier shall ensure that any Goods being supplied under the Contract, whether in the form of work in progress or complete items, will be made available to Hardide, its client or any duly nominated representative, to inspect at the Supplier's premises during normal business hours at those premises, on the giving of reasonable notice to the Supplier.
- 9.2 The Supplier shall, upon reasonable notice being given by Hardide, allow Hardide, its client or any duly nominated representative ("the permitted parties") access to the Supplier's premises, and shall procure similar access to such premises of its agents and

- subcontractors as are being used to carry out work on the Goods, in order enable the permitted parties to inspect and audit the facilities, processes and procedures used to fulfil the Supplier's obligations under the Contract.
- Provide adequate data to the Purchaser relating to progress of work on the Supplies and their quality; and
- 9.4 Provide all necessary assistance (including, where appropriate, access to office accommodation, telephone and fax facilities) to enable the above-referenced rights to be fully exercisable.
- 9.5 the use of statistical techniques for product acceptance and related instructions for acceptance is not permitted without the express prior written consent of Hardide.
- 10. Patents and Intellectual Property**
- 10.1 The Supplier warrants that neither the Goods nor the use of the Goods does or will infringe any patent, registered design, trade mark, copyright or other protected intellectual property right of any third party.
- 10.2 The Supplier shall indemnify and hold the Purchaser harmless against all losses, claims, demands, charges, fees (including legal and other professional costs), payments, royalties, damages, costs and expenses of any kind arising from the infringement or alleged infringement of any Intellectual Property Rights owned or controlled by a third party arising out of or in connection with work done under the Order or to anything done by the Purchaser or its customer arising out of or in connection with the Supplies.
- 10.3 Where applicable, the Supplier agrees that all Intellectual Property Rights created as a result of the work undertaken by the Supplier, its agents or sub-contractors for the purpose of the Order shall vest in and be the absolute property of the Purchaser. Consequently, the Supplier assigns to the Purchaser, with full title guarantee and free from all third party rights, the Intellectual Property Rights and all other rights created as a result of the Order and the Supplier shall (at its own cost) do all necessary acts to vest such Intellectual Property Rights in the name of the Purchaser or its nominee, such acts to include (without limitation) the execution of documents.
- 11. Confidentiality**
- 11.1 A party ("the Receiving Party") which receives, whether directly or indirectly, any Confidential Information belonging to the other party ("the Disclosing Party") shall:
- 11.1.1 keep the Confidential Information confidential;
- 11.1.2 not use disclose or otherwise make available the Confidential Information to any other person other than with the prior written consent of the Disclosing Party or in accordance with Conditions 11.2 and 11.3 or 11.4; and
- 11.1.3 not use, disclose or otherwise make available the Confidential Information for any purpose other than the performance of its obligations under the Contract. Neither Party nor any of its Affiliates will file any patent application or other statutory protection in any jurisdiction based on or using any Proprietary Information or Intellectual Property received from the other Party or any of its Affiliates under this Agreement.
- 11.2 During the term of the Contract the Receiving Party may use, disclose or otherwise make available the Confidential Information to its employees and approved sub-contractors ("the Recipient") to the extent that it is necessary for the purposes of the Contract.
- 11.3 The Receiving Party shall use its reasonable endeavours to ensure that each Recipient is made aware of and complies with all the Receiving Party's obligations of confidentiality under the Contract as if the Recipient were a party to the Contract.
- 11.4 The obligations contained in Conditions 11.1 and 11.3 shall not apply to any Confidential Information which:
- 11.4.1 is at the date of the Contract in or at any time after the date of the Contract comes into public knowledge other than through breach of the Contract by the Receiving Party or any Recipient;
- 11.4.2 can be shown by the Receiving Party to the reasonable satisfaction of the Disclosing Party to have been known by the Receiving Party before disclosure by the Disclosing Party to the Receiving Party;
- 11.4.3 subsequently comes lawfully into the possession of the Receiving Party from a third party without any obligation of confidentiality; or
- 11.4.4 is required to be disclosed by law including the order of any court or tribunal of competent jurisdiction.
- 11.5 No public announcement, communication or circular (other than to the extent required by law or any recognised investment exchange) concerning the

Goods referred to in the Contract or the existence of the Contract shall be made or despatched by the Supplier without the express prior written consent of Hardide.

12. Termination

- 12.1 Hardide shall be entitled to cancel the Contract in whole or in part, without any liability for any loss or damage whatsoever except as provided in Condition 12.2.
- 12.2 Upon any cancellation referred to in Condition 12.1 Hardide shall cease to be bound to pay that part of the Price which relates to the Goods which have not been delivered or supplied, but will pay for expenses and work in progress incurred wholly, exclusively and reasonably for the purposes of the Contract to the extent to which the same would otherwise be an unavoidable loss to the Supplier due to Hardide's cancellation. The Supplier shall submit its claim within two months of the effective date of cancellation by Hardide for such expenses and work in progress. The Supplier shall take all reasonable steps to mitigate its loss and Hardide shall not be liable for claims submitted more than two months after cancellation.
- 12.3 Without limiting Hardide's rights under Condition 12.1, Hardide may at any time by notice in writing terminate the Contract with immediate effect without liability to Supplier upon the occurrence of any of the following events:
- 12.3.1 if the Supplier breaches any of its obligations under the Contract and fails, where the breach is capable of remedy, to remedy such breach within 30 days after written notice from Hardide requiring such remedy;
- 12.3.2 if the Supplier enters into any composition or arrangement for the benefit of its creditors;
- 12.3.3 if the Supplier, being an individual, becomes bankrupt or has a receiving order or administration order made against him;
- 12.3.4 if the Supplier becomes insolvent or appears to be unable to pay a debt or have no reasonable prospect of paying debt (within the meaning of Section 268 of the Insolvency Act 1986) or being a company, appears unable to pay its debts (within the meaning of Section 123 of that Act);
- 12.3.5 if the Supplier is a company or other corporate body, the presentation of a petition or the giving of any notice of a resolution for the winding up of the Supplier (other than for a members' voluntary winding up of a solvent company for the purpose of a bona fide reconstruction);
- 12.3.6 if the Supplier is a company or other corporate body, the appointment of an administrative receiver or administrator in respect of the whole or any part of the Supplier's undertaking or assets; or
- 12.3.7 if the Supplier shall suffer any analogous proceedings under any laws outside the UK.
- 12.4 Cancellation or termination of the Contract shall not limit or exclude Hardide's other rights or remedies under the Contract, whether accrued before or accruing after the effective date of cancellation or termination.
- 12.5 The provisions of Conditions 3.3, 5, 8 and 10 to 16 inclusive shall survive expiry or termination of the Contract.

13. Materials Provided by Hardide

The Supplier shall be fully responsible for any loss or damage to any free issue materials or to any of Hardide's materials or other property whilst in the Supplier's possession for any purpose connected with the Contract. Any wastage due to poor workmanship shall be replaced or credited at Hardide's discretion.

14. Limitation of Liability

- 14.1 Notwithstanding anything else in the Contract but subject to Condition 14.2, the aggregate liability of Hardide to the Supplier under or in connection with the Contract, whether arising from contract, tort (including negligence) or otherwise, shall be limited to the Price.
- 14.2 There shall be no limit on Hardide's liability arising from death or injury to persons which were caused by Hardide's negligence or its breach of statutory duty, or arising from its fraud or fraudulent misrepresentation.
- 14.3 Hardide shall not be liable to the Supplier in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever for any loss of profits, business, bargain, contracts, revenues, diminution of goodwill, anticipated savings or for any special, indirect or consequential damage or loss of any nature whatsoever.

15. Insurance

- 15.1 During the term of the Contract (and for a period of 6 years thereafter) the Supplier shall maintain in force with a reputable insurance company:
- 15.1.1 Property insurance: in an amount not less than £5,000,000 (five million pounds) per event or series of related events in any one period of insurance;
- 15.1.2 Employers' liability insurance: in an amount not less than £5,000,000 (five million pounds) per event or series of related events in any one period of insurance; and
- 15.1.3 Public liability insurance: in an amount not less than £20,000,000 (twenty million pounds) per event or series of related events in any one period of insurance.
- 15.2 The Supplier shall, on Hardide's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium.
- 15.3 All proceeds of insurance shall be used to discharge the claim or liability to which the proceeds relate.

16. Indemnity

- 16.1 The Supplier shall fully indemnify and keep fully indemnified Hardide and its officers, employees, agents contractors and representatives ("the indemnified parties") from and against any and all actions, claims, demands, costs (including reasonable legal costs and expenses), losses (including without limitation loss of profit, revenue or goodwill), damages, remediation costs and liability and all litigation, arbitration, mediation or adjudication expenses incurred by or awarded against the indemnified parties or any of them and suffered or incurred as a result of or arising in any way directly or indirectly out of:
- 16.1.1 the supply of the Goods by the Supplier;
- 16.1.2 any breach of the Contract or breach of warranty by the Supplier; or
- 16.1.3 any act, omission or default (whether deliberate, wrongful, negligent or accidental) of the Supplier, together with any and all reasonable and proper costs and expenses, including legal costs and expenses, reasonably incurred by Hardide in mitigating any loss, damage or liability or in settling or defending any claim, action, proceeding or demand in respect of any such loss, damage or liability, or in complying with any undertakings, orders, judgments or awards in relation thereto.

17. Force Majeure

- 17.1 Any delay or failure of either party to perform its obligations under the Contract shall be excused if and to the extent that it is caused by any of the following events or circumstances which is beyond the reasonable control of the party and without its fault or negligence, namely:
- 17.1.1 war, hostilities, rebellion, civil war, terrorism;
- 17.1.2 earthquakes, flood, lack of water arising from weather or environmental problems, fire or other environmental catastrophe;
- 17.1.3 riot, civil commotion or disorders;
- 17.1.4 explosion or other accident; or
- 17.1.5 acts of God and acts of any governmental, local or other competent authority, provided that written notice of such a delay (including the anticipated duration of such delay) shall be given by the affected party to the other within three Working Days.
- 17.2 During any period of such delay or failure to perform affecting the Supplier Hardide at its option may:
- 17.2.1 purchase Goods or Services from other sources without liability to the Supplier; or
- 17.2.2 require the Supplier to provide the Goods or Services from other sources in such quantities and at times requested by Hardide and at the Price or contract rate stipulated in the Contract Documentation.
- 17.3 If requested by Hardide, the Supplier shall within three Working Days provide adequate assurances that the delay shall not exceed thirty days. If the delay lasts more than thirty days or lasts more than an aggregate of thirty days during any period of ninety consecutive days, or the Supplier does not provide adequate assurance that the delay will cease within thirty days, Hardide may immediately cancel the Order or that part of the Order which has not been performed without liability.

18. Miscellaneous and General

- 18.1 The Contract constitutes the entire agreement between the parties and cancels and supersedes any and all previous agreements (whether oral or written, express or implied) between the parties relating to the subject matter of the Contract. Except for the express written terms of the Contract, the parties acknowledge and agree that in entering into the Contract they have

not relied on or been induced by any warranty, statement or representation of the other or any other person relating to the Contract. Nothing in the Contract shall affect any liability of a party for fraudulent misrepresentation.

- 18.2 No term of the Contract is intended for the benefit of any third party, and none of these Conditions shall be enforceable by a third party either under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 18.3 Each of these Conditions is to be construed as independent of every other Condition so that the invalidity, illegality or unenforceability of any Condition shall not affect the other Conditions, all of which will remain in full force and effect.
- 18.4 No variation of the Contract is effective unless it is made in writing and refers specifically to the Contract and is expressly agreed in writing by duly authorised representatives of the Supplier and Hardide.
- 18.5 If required by Hardide, the Supplier shall and shall use reasonable endeavours to procure that any necessary third party shall promptly execute and deliver such documents and perform such acts as may be required for the purpose of giving full effect to the Contract.
- 18.6 No omission or delay on the part of Hardide or the Supplier in exercising any right, power or privilege under the Contract shall operate as a waiver by it or of any right to exercise it in future or of any other of its rights under the Contract.
- 18.7 Except as expressly provided in the Contract, the rights and remedies contained in the Contract are cumulative and shall be in addition to every other right or remedy provided by law or otherwise.
- 18.8 The Contract shall, as to any of its provisions remaining to be performed in whole or in part or capable of having effect following termination or performance, remain in full force and effect despite termination in accordance with Condition 11.
- 18.9 The Supplier shall not assign any of its rights, or sub-contract all or any part of its obligations under, the Contract without the express prior written consent of Hardide. In the event that Hardide provides such consent to the Supplier, the Supplier shall be responsible at all times for work done and any Goods or other materials supplied by any such assignees or sub-contractors.
- 18.10 Any notice required to be sent under the Contract will be properly served if sent in writing:
- 18.11 by hand in which case such notice shall be deemed to be served at the time of delivery when it is delivered on a Working Day, and at 9am on the first Working Day following the day of delivery if it was not delivered on a Working Day; or
- 18.12 by first class or recorded delivery post to the address of the party in question given on the Order (or such other address as the parties may notify to each other from time to time) in which case such notice will be deemed to have been served two Working Days after the date of posting.

19. Law and Jurisdiction

English law shall govern the construction and operation of the Contract and the Supplier and Hardide each agree to submit to the exclusive jurisdiction of the English courts save for the purpose of the enforcement of any judgment.