

General Terms & Conditions of Processing of  
Optical Coating Technologies  
November 2018

1. General Information, Scope of Application

- (1) We are Optical Coating Technologies Ltd, a company registered in England and Wales under company number 03676535. Our registered address is at Unit 8, Lagrange, Tamworth B79 7XD. Our registered VAT number is GB715673818.
- (2) These general terms and conditions of processing ("Processing Terms") apply to all contracts concluded with business customers - that is, customers acting for purposes relating to their trade, business, craft or profession, whether acting personally or through another person acting in their name or on their behalf ("Customers"). We do not contract with consumers. These Processing Terms (as may be amended by us from time to time and notified to the Customer) apply to this and all future transactions concluded between the Customer and us for the Services (as defined at sub-section 1(4), below).
- (3) If we procure work pieces from a supplier as specified by the Customer on the Customer's behalf then, in the absence of an express agreement to the contrary, the Customer acknowledges and accepts that we are acting as agent of the Customer, and the Customer is principal under the contract with the respective supplier. The Customer agrees to fulfil all contractual obligations with the supplier in this instance.
- (4) These Processing Terms apply to contracts for the coating and/or finishing and/or processing of work pieces that are provided to us or that are procured by us as specified by the Customer (the "Services"). Our General Terms and Conditions of Sale and Delivery, which differ in part, shall apply where we handle the sale and delivery of coated or uncoated goods (manufactured by us or without specifications from the Customer).
- (5) Unless otherwise agreed, the version of the Processing Terms in force, or otherwise the most recent version communicated to the Customer in writing at the time of the Customer's order for the Services ("Order") shall apply to that Order and all future Orders without requiring us to refer to the Processing Terms again in each individual case.
- (6) No variation of these Processing Terms shall be effective unless it is in writing and signed by both parties. Only our directors and those of our employees who we have appointed as our attorney are authorised to conclude varied terms with a Customer.
- (7) If we agree to vary terms with a Customer (for example, by side agreement, or amendment), those varied terms shall take precedence over these Processing Terms.
- (8) Any notice or other communication given to a party under or in connection with the Contract, as defined in sub-section 2(2), shall be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier or email. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to above in this sub-section 1(8); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second business day (that is, a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business) after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, one business day after transmission. The provisions of this sub-section 1(8) shall not apply to the service of any proceedings or other documents in any legal action.
- (9) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

General Terms & Conditions of Processing of  
Optical Coating Technologies Limited  
October 2018

2. Contract Formation

- (1) Our offers are always conditional and non-binding, unless we have expressly designated them as binding or they contain a specific acceptance period. Any quotation we may provide shall not constitute an offer.
- (2) By submitting an Order to us, the Customer is making an offer to purchase the Services in accordance with these Processing Terms. Unless otherwise stated in the Order, we shall have 14 (fourteen) days after receiving the Order to accept it. The Order shall only be deemed accepted if we confirm our acceptance in writing (for example, by means of an Order confirmation) or, in the absence of such written confirmation, if we begin performance of the Services. On acceptance, the contract for the provision of the Services ("Contract") shall come into existence.
- (3) The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between us, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into this agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement. Nothing in this sub-section 2(3) shall limit or exclude any liability for fraud.
- (4) Unless agreed otherwise in writing, these Processing Terms apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- (5) We reserve the right to amend or supplement these Processing Terms at any time by giving notice in writing to the Customer. Any Orders received prior to the implementation of amendments or supplements shall be governed by the Processing Terms prevailing on the date of the Order. Additionally, we are entitled to make such reasonable technical changes to the Customer's specification (as set out in the Order) as we deem necessary to execute the Contract.

3. Intellectual Property Rights

We shall retain all rights, title and interest in the intellectual property rights subsisting in all offers, cost estimates, drawings, diagrams, calculations, prospects, catalogues, models, tools, and other documents and resources we provide to the Customer ("Materials"), and the Customer acknowledges that the Materials are our exclusive property. The Customer may not make the Materials available to third parties, or disclose them, make use of them, or copy them (whether for personal or business use) without our express written consent. Regardless of the foregoing, we consent to the Customer making a copy of data (forming part of the Materials) for the sole purpose of creating a back-up copy. At our request, the Customer shall return all Materials to us and destroy any copies that have been made if the Customer no longer needs them in the ordinary course of its business or if negotiations between us do not lead to the conclusion of a Contract.

General Terms & Conditions of Processing of  
Optical Coating Technologies  
November 2018

4. Non-binding Technical Advice and Technical/Chemical Information

- (1) We provide all technical advice to the best of our knowledge and the Customer accepts this is nonbinding and is provided without any warranty as to its accuracy, and does not relieve the Customer from the responsibility of checking the suitability of each individual delivery for the Customer's intended purpose before further processing and/or use. The Customer is solely responsible for conducting independent inspections, testing and analysis for the purpose of ensuring that coatings are suitable for its intended purpose.
- (2) Any technical, physical, and chemical information we provide (for example, weights, measurements, utility values, reliability, tolerances, and technical specifications) including any descriptions (for example, drawings and diagrams) is provided for the sole purpose of giving an approximate idea of the Services. They shall not form part of the Contract or have any contractual force, unless: agreed by us in writing. We are permitted to make changes to the Services to ensure they comply with applicable statutory or regulatory requirements or in order to deliver technical improvements. The Customer acknowledges and agrees we may replace the work pieces' components with comparable components.

5. Receipt and Properties of Work Pieces

- (1) All work pieces that the Customer sends to us for coating/processing/finishing must be accompanied by an order or delivery note that includes the following information: (a) designation of each work piece including quantity, value, net weight and specific features; (b) any deadlines for delivery of the work pieces and packaging type; (c) the material quality that constitutes each work piece (standard designation); and (d) an *express indication if any work piece is not suitable for heat treatment at 450 °C*.
- (2) The following information is additionally required on a pro forma invoice for all work pieces sent to us from outside the UK: (a) the unit price and total value; (b) the number of packages and their gross and net weights; (c) country of origin of the work piece; (d) mode of transport for delivery; and (e) requested mode of transport for return shipment following our completion of the Services.
- (3) The Customer shall bear the risk concerning the suitability of work pieces delivered by the Customer or procured by us as specified by the Customer for coating/processing/finishing save for where we are grossly negligent or have wilfully misconducted ourselves.
- (4) Work pieces to be processed must be delivered by the Customer in a condition ready for processing (as required under section 12(10)) on schedule by the agreed date.
- (5) Unless specifically instructed or required to do so by the Customer in writing, we are not obliged to perform a special inspection on the work pieces received by us to be processed.

6. Ownership, Liens, and Rights of Retention

- (1) The processing of the work pieces is carried out by us exclusively on behalf of the Customer. The work pieces remain the property of the Customer at all times, provided that the Customer has acquired ownership of them.
- (2) Our claims under the Contract entitle us to a lien over the work pieces and other property of the Customer that have been entrusted to us and are in our possession so we may perform our obligations under the Contract.
- (3) We shall be entitled to assert a lien for claims arising under the Contract or from any previously performed work, deliveries of replacement parts, and other services, insofar as they are connected to the Services performed. A lien may be asserted for other claims arising from the business relationship between the Customer and us that are uncontested or upheld by final and binding legal judgment.

General Terms & Conditions of Processing of  
Optical Coating Technologies Limited  
October 2018

7. Price, Payment and Cost Estimate

- (1) Our prices are stated in Sterling ex works/warehouse and do not include VAT at the applicable rate (or any other applicable sales tax), or costs for packaging and transport, both of which we will charge in addition. The Customer shall be responsible for any customs duties, fees, taxes, and other charges. If costs relating to the Order change significantly after the conclusion of the Contract the parties shall agree on an adjustment to reflect this change.
- (2) If we have provided the Customer with a non-binding cost estimate (as opposed to a fixed quote) for the Services, then we will immediately notify the Customer and provide an updated estimate if it becomes evident to us, whilst providing the Services, that the estimated cost will be exceeded by more than 15% of the original cost estimate.
- (3) The Customer shall pay all invoices in full within 10 (ten) days of its receipt/acceptance of the processed work pieces and the corresponding invoice, and time for payment shall be of the essence. If this deadline is not met then the Customer shall automatically be in default of payment and we shall, without affecting any other right or remedy we may have, be entitled to charge interest under subsection 7(5), below.
- (4) In certain circumstances, we may require advance payment in full or in part, in order to carry out a delivery of the processed work piece back to the Customer. We will communicate this requirement at the earliest opportunity and with the Order confirmation at the latest. Additionally, we have the right to require advance payment or a form of security to carry out or perform any outstanding delivery or services if we become aware of circumstances after the conclusion of the Contract that are, in our reasonable opinion, likely to significantly decrease the credit rating of the Customer and threaten any outstanding claims we may have against the Customer under the Contract (including from other individual Orders to which the same Processing Terms, under sub-section 1(5), apply).
- (5) If the Customer is in default of payment, it must pay interest on amounts in arrears at a rate of 8% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- (6) We may, by giving written notice to the Customer at any time before delivery of the processed work pieces, increase the price of the Services to reflect any increase in the cost of the Services that is due to:  
(a) any factor beyond our control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and manufacturing costs), any such increase shall be no more 5% for a Contract with a term of less than four months but may be more than that percentage for longer Contracts;  
(b) any request by the Customer to change the delivery date(s), types of Services ordered, or their specification; or  
(c) any delay caused by the instructions of the Customer or failure of the Customer to give us adequate or accurate information or instructions. If an increase under sub-section 7(6)(a) will result in an increase of more than 5%, and the relevant Contract has a term of four months or more, then the Customer may terminate that Contract by giving written notice to us within seven days of its receipt of our notice notifying it of a price increase.
- (7) The Customer shall pay all amounts due under the contract in full and shall not be entitled to any setoff, counterclaim, deduction or withholding except for any deduction or withholding required by law or by an order of the court, or recognised by us. The Customer may exercise a right of retention only if the Customer's counterclaim relates to the same Order. We may at any time, without limiting our other rights or remedies, set off any amount owing to us by the Customer against any amount payable by us to the Customer.

General Terms & Conditions of Processing of  
Optical Coating Technologies  
November 2018

8. Payment for Work-In Progress

If we are unable to complete an Order for reasons beyond our control, the Customer shall pay, immediately on demand, any outstanding invoices and a final sum representing fair and reasonable compensation for any work in progress at the date of termination, and we shall have no further liability to the Customer. Our liability for damage to work pieces, breach of ancillary contractual obligations and for damages not affecting the work piece itself is excluded to the fullest extent permitted by law, though nothing in this section 8 shall limit or exclude damage caused by our wilful misconduct or gross negligence.

9. Delivery Deadlines and Periods

- (1) Delivery deadlines and periods are non-binding and the time of delivery is not of the essence unless agreed otherwise in writing. The delivery period begins when [the parties have resolved all details of execution and] the Customer has provided all information required for the Contract. If the parties have agreed to a shipment then the delivery periods and deadlines relate to the point in time of the handover of the processed work pieces to the forwarder, carrier, or other third party commissioned for transport.
- (2) We are not liable for any failed or delayed delivery if these are due to an event beyond our reasonable control or other events that were unforeseeable at the time of the conclusion of the Contract (e.g. operational disruptions of any type, difficulties in the procurement of materials or energy, delays in transport, strikes, legal lockouts, workforce, energy, or raw material shortages, difficulties in the procurement of the necessary official permits, official measures, or incomplete, incorrect, or late delivery by suppliers) for which we are not responsible (each an "Unforeseen Event"), nor shall we be liable for any delay attributable to the Customer's failure to provide us with adequate delivery instructions or any other instructions that are relevant to the supply of the work pieces. If an Unforeseen Event makes the delivery or service significantly more difficult or even impossible and the Unforeseen Event is not merely temporary then we may terminate the Contract (in whole or in part); in such a case we will refund any sums already paid by the Customer for any Services not yet provided without undue delay. If we consider the Unforeseen Event to be of a temporary nature we may extend the delivery or performance periods or postpone the delivery or performance deadlines for the duration of the Unforeseen Event plus a reasonable start-up period. If the Customer cannot be reasonably expected to accept the delivery or service due to the delay then the Customer may terminate the Contract by promptly giving written notice to that effect to us. We will use reasonable endeavours to inform the Customer of the occurrence of an Unforeseen Event and any failed delivery or delayed delivery, without undue delay.
- (3) If the Customer experiences delay in delivering the work pieces to us prior to our performance of the Services, the Customer shall provide us with a warning notice. If we are late in the performance of the delivery or Services or if it becomes impossible for us to perform a delivery or Service for whatever reason, our liability for damage compensation shall be limited in accordance with section 13 of these Processing Terms.

10.

General Terms & Conditions of Processing of  
Optical Coating Technologies Limited  
October 2018

Risk, Transport and Insurance

- (1) We provide the Services and fulfil Orders (and any related performance) from our facilities located in Tamworth, which is also where we receive and deliver the work pieces before and after processing.
- (2) The Customer shall bear all risk in the work pieces, including their accidental loss or deterioration, irrespective of whether such loss or deterioration occurs during delivery to or from or within our facilities.
- (3) The Customer shall bear all transportation costs for the work pieces both for delivery to our facilities prior to our commencement of the Services, and for delivery back to the Customer upon our completion of the Services. The Customer shall be responsible for insuring the work pieces. However, we will, at the Customer's request and expense, insure the work pieces during transport to and/or from our facilities against insurable transport risks such as theft, breakage, and fire.
- (4) There is no insurance coverage during the processing in our facilities. The Customer is personally responsible for ensuring that any existing insurance coverage for the work pieces is in place (for example, for fire, burst pipe, or storm insurance). We will only obtain insurance for these risks at the Customer's express request and expense.
- (5) Unless agreed otherwise in writing, we may deliver Orders by instalments, which may be invoiced and paid for separately. References in the Contract to Orders shall, where applicable, be read as references to instalments.

11. Acceptance of the Processed Work Pieces

- (1) If the Contract requires so, the Customer shall inspect the work pieces immediately upon delivery and shall notify us in writing of any defects in the Services, including in respect of delivery contents and/or quantity, properties and condition or quality of the processed work pieces ("Complaint"), without undue delay. Coated work pieces that were not finished by us shall be deemed accepted in defect-free condition if the Customer does not provide a written Complaint for defects of quality within 7 (seven) days of receipt of delivery. This provision also applies to coatings for which no subsequent processing is necessary or intended.
- (2) Acceptance shall be deemed to have occurred upon handover and usage of processed work pieces without complaint or upon our receipt of payment by the Customer, whichever is sooner.
- (3) The Customer shall be responsible for any acceptance-related costs it incurs.
- (4) If completion of delivery is delayed as a result of: (a) the Customer's failure to provide confirmation of acceptance in a timely manner; or (b) the Customer's failure to perform any ancillary action as set out in the delivery note accompanying the delivered work pieces; or (c) any other reason causing delay to delivery for which the Customer is responsible (each a "Customer Delay"), then we may charge the Customer for all related costs and expenses (including insurance) arising out of or connected with the Customer Delay. The Customer shall pay us, on demand, by way of liquidated damages, the following: (a) an amount equal to 0.5% of the net price of the relevant work pieces for each week (or part week) that Customer Delay results in late delivery up to maximum of 5% of the net price of the relevant work pieces; or (b) 10% of the net price of the relevant work pieces if the Customer fails to provide acceptance or take receipt of such work pieces. The foregoing is without prejudice to our such additional rights and remedies implied by statute and common law.
- (5) The payment of liquidated damages under sub-section 11(4) does not affect our right to claim further damages for losses we suffer or incur arising out of or connected with a Customer Delay. The amount of any liquidated damages paid under sub-section 11(4) shall be offset against damages awarded to us for a Customer Delay so as to prevent so called "double recovery".

General Terms & Conditions of Processing of  
Optical Coating Technologies  
November 2018

12. Warranty
- (1) We warrant that the Services shall be provided using reasonable care and skill, and the work pieces shall conform to the agreed scope of Services (for finishing, processing, and coating) for a period of 12 (twelve) months from the date of delivery (“Warranty Period”).
- (2) Subject to sub-section 12(3) to sub-section 12(16), if:
- a. the Customer gives notice in writing to us during the Warranty Period within a reasonable time of discovery (which shall mean within 5 working days of discovery) that some or all of the work pieces do not comply with the warranty set out in sub-section 12(1);
  - b. we are given a reasonable opportunity of examining such work pieces; and
  - c. the Customer (if asked to do so by us) returns such work pieces to our place of business at our cost, we shall, at our option, repair or replace the defective work pieces, or refund the price paid for the Services.
- (3) We shall not be liable for the work pieces' failure to comply with the warranty set out in sub-section 12(1) in any of the following events:
- a. the Customer, or a third party instructed by the Customer, makes any further use of such work pieces, after giving notice in accordance with sub-section 12(2);
  - b. the defect arises because the Customer failed to follow our oral or written instructions as to the storage, commissioning, installation, use and maintenance of the work pieces or (if there are none) good trade practice regarding the same;
  - c. the defect arises as a result of us following any drawing, design or specification supplied by the Customer;
  - d. the Customer alters or repairs such work pieces without our written consent;
  - e. the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions;
  - f. in our reasonable opinion (taking into account our technical experience), the quality of the coating of the delivered work pieces is appropriate for the Customer's specified and assumed intended purpose as communicated to us by the Customer; or
  - g. the work pieces differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
- (4) We shall bear the costs associated with inspection and replacement or repair (including carriage, travel, labour, and material costs but excluding removal and installation costs) if we identify a defect save that we shall not be liable for any costs attributable to the work pieces being located at a different address to the original delivery address.
- (5) We shall not be responsible or liable for the removal of the defective work pieces which have been installed or for re-installation of replacement or repaired work pieces if we were not originally obliged to provide installation.
- (6) In exceptional circumstances (for example, if operational safety is jeopardised as result of defective work pieces or if the Customer is defending an unreasonable claim for damages directly attributable to the defective work pieces), the Customer has the right to repair, or to procure the repair of, the defective work pieces and to demand reimbursement of the reasonable costs directly incurred by it in repairing such defective work pieces. The Customer shall promptly notify us in writing that it is intending to repair, or it is undertaking the repair or procuring the repair of, the work pieces pursuant to this sub-section 12(6).

General Terms & Conditions of Processing of  
Optical Coating Technologies Limited  
October 2018

- (7) If we fail to replace or repair the defective work pieces within a reasonable time, the Customer may demand a reduction in price or, in the case of major defects, terminate the Contract. To be clear, the Customer is not entitled to terminate on the basis of minor contract deviations from the Customer's specification, or any minor defects.
- (8) If we are unable to repair or replace defective work pieces because they are supplied or manufactured (in whole or part) by a third party and are subject to licensing or other restrictions, we will, at our discretion, either assert a warranty claim against the relevant manufacturer or supplier on the Customer's behalf or assign the warranty claim to the Customer. We will only accept liability for claims against us for the types of defects mentioned in this sub-section 12(8), and in accordance with these Processing Terms, if the claims against the manufacturer and supplier, specified above, are unsuccessful or appear to have no prospect of success, for example, due to insolvency. The limitation of the Customer's warranty claims against us in question shall be suspended for the duration of our claim against the relevant manufacturer or supplier.
- (9) We do not provide any guarantee of suitability for extraordinary loads. We exclude liability for damages caused by influences that were unknown to us at the time of our provision of the Services and the later impact of which was also unforeseeable, by improper handling, or by mechanical stress.
- (10) The Customer acknowledges and agrees that the properties of coatings are significantly influenced by the properties of the work pieces, and so the Customer must ensure that these are delivered in a condition suitable for coating. The following are to be avoided or removed in particular: weld beads, laminations, flashing, cracks, pores, bubbles, and the like. We shall have no liability whatsoever in respect of any damages and defects arising out of or in connection with a failure by the Customer to supply the work pieces to us in a condition suitable for coating. The same shall apply if our coatings do not adhere or do not sufficiently adhere to the work piece due to poorly soluble preservatives, oils/greases, drawing compounds, or oxide layers, unless this was readily apparent to us. We shall furthermore not be liable for damages and defects resulting from the use of raw materials of a quality other than that provided to us or agreed to for trial coating. Colour specifications, for example, based on RAL, viscosity specifications, and gloss specifications are only ever approximations, even if confirmed by us. Deviations in colour, gloss, or flow properties within tolerance limits that are typical for the industry shall not entitle the Customer to give notice of defects; and the same shall apply for deliveries made according to a sample.
- (11) The Customer is responsible for investigating whether a coating will withstand foreseeable stress conditions caused by sea water, chemicals, vibrations, high temperatures, and the like.
- (12) We shall not be liable for any deformation, accuracies of dimension or fit, cracks, or the like resulting from the processing. We will not assume any liability for work pieces rejected by the Customer due to defects and shortfall quantities of small parts of up to 1%.
- (13) If we incur equipment and setup costs on the basis of the Customer's specified quantity (as set out in the Order) and if the quantity specified by the Customer is not met, we shall be entitled to charge the Customer for the remainder of the incurred costs. Only those costs for special equipment, such as covers and coating equipment agreed to in the Order, will be charged.

General Terms & Conditions of Processing of  
Optical Coating Technologies  
November 2018

- (14) Irrespective of the provisions above, unless expressly agreed to in writing, we shall not recognise or accept notices of defects in the following circumstances:
- a. in the event of damage resulting from transport or assembly or in the event that repair work is conducted by the Customer if the parties have not agreed that the Customer is authorised to perform such repairs;
  - b. in the event of damage caused by contact with sealing profiles, sealants, cleaning agents, or cleaning processes (for example, autoclaves, steam blasters); in the event of damage caused by blanks being contaminated with silicone-containing or similar products; in the event of damage caused by excessive greasing, oiling, or the like;
  - c. in the event of improper design or design unsuitable for coating;
  - d. in the event that the finished work pieces are kept in areas under the direct influence of salt water, industrial chemicals, or other sources of aggressive emissions of harmful substances;
  - e. in the event of utilisation contrary to the provisions for proper use to which we and the Customer agreed and/or in the event of improper processing of the work pieces in cutting, bending, or other forming processes; in the event of processing using inadequate tools and/or by unqualified personnel (proper use shall be as described in our product description unless otherwise expressly agreed);
  - f. in the event of the delivery of defective work pieces (for example rusty, oxidised, or containing oils or greases) by the Customer or in the event of laser-cut edges – if defective work pieces are delivered by the Customer and if additional services are requested and/or necessary beyond the contractual scope of services then the Customer is to reimburse us for the additional costs resulting from this beyond the agreed price;
  - g. in the event of coatings to primers, pre-coatings, castings, or batch-galvanised work pieces, regardless of their origin – in this case the finishing/processing shall be carried out at the sole risk of the Customer due to our lack of influence on the substrate;
  - h. in the event of rejection due to deformation, cracks, or the like in the course of processing as well as in the event of negative impact on the accuracies of dimension or fit of movable parts;
  - i. in the event of gas emissions, adhesion problems, and surface roughness resulting from substrate properties;
  - j. in the event of excessive air and/or dust inclusions, unless these relate to work pieces that are as good as new or those with surface properties allowing flawless coating; and
  - k. in the event of surface defects.
- (15) Except as provided in this section 12, we shall have no liability to the Customer in respect of the work pieces' failure to comply with the warranty set out in sub-section 12(1).
- (16) These Processing Terms shall apply to any repaired or replacement work pieces supplied by us.

General Terms & Conditions of Processing of  
Optical Coating Technologies Limited  
October 2018

13. Limitation of Liability – WE DRAW YOUR PARTICULAR ATTENTION TO THIS SECTION 13 AS IT CONTAINS PROVISIONS WHICH EXCLUDE AND LIMIT OUR LIABILITY
- (1) We do not assume any liability for the suitability of a coating/finishing/processing ordered by the Customer for the Customer's intended purpose. In particular, the Customer bears the risk associated with the use of coated work pieces in safety-relevant areas of machinery, equipment, and vehicles of any type. The Customer is responsible for complying with any relevant applicable law regarding the permissibility of coated work pieces for use in vehicles, equipment, and machinery of any type. The Customer is responsible for obtaining and complying with operational permits for vehicle parts, equipment components, and/or machinery parts coated by us. We shall not be liable for any damage caused by the use of coated parts in machinery, equipment, and vehicles of any type. We shall not be liable for damage caused by chemical, thermal, and mechanical influences on coatings, including damage caused by bearings or seals. We shall not be liable for damage occurring during the processing or other use of the supplied work pieces. Where we provide technical information or advice that does not form part of the Contract or contractually agreed scope of services, we shall not, to the fullest extent permitted by law, be liable in any manner for any loss or damage (whether direct, indirect or consequential and whether economic or other) resulting from the implementation of, or reliance on, any actual or alleged information or advice.
- (2) Nothing in these Processing Terms shall limit or exclude our liability for:
- a. death or personal injury caused by our negligence, or the negligence of our employees, agents or subcontractors;
  - b. fraud or fraudulent misrepresentation;
  - c. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession);
  - d. breach of section 2 of the Consumer Protection Act 1987; or
  - e. any other liability which cannot be limited or excluded by applicable law.
- (3) Subject to sub-section 13(2):
- a. we shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for loss of profits; loss of sales or business; loss of agreements or contracts; loss of anticipated savings; loss of use or corruption of software, data or information; loss of damage to goodwill; and any indirect or consequential loss; and
  - b. our total liability to the Customer in respect of all other losses arising out of or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in all circumstances be limited as follows:
    - i. for damage to tangible property, to £2,500,000 (two million, five hundred thousand GBP); and
    - ii. for any other type of liability, to the total price payable by the Customer under the relevant Contract.
- (4) We warrant that any Services we are to provide under the Contract will be provided with reasonable skill and care. All other representations, conditions or warranties which might be implied or incorporated into these Processing Terms by statute, common law or otherwise are excluded to the fullest extent permitted by law.

General Terms & Conditions of Processing of  
Optical Coating Technologies  
November 2018

14. Data Protection

- (1) For the purpose of the Data Protection Act 1998, we are the data controller. We may collect and process personal data about the Customer, its employees and sub-contractors in connection with the Contract and we will use this personal data to deliver the work pieces to the Customer and to process the Customer's payment for the Services, and for marketing, administrative and management purposes. The Customer consents to us making such personal data available to any member of our group of companies, those who provide products or services to us, and potential purchasers of us, or a member of our group of companies, or any part of our business
- (2) Where we extend credit to the Customer for the Services we may pass personal data to credit reference agencies and they may keep a record of any search that they do. We will only give personal information to other third parties where the law either requires or allows us to do so.
- (3) The Customer, its employees and sub-contractors have the right to ask us not to process their personal data for marketing purposes and can exercise this right at any time by contacting us at [info@optical-coatings.com](mailto:info@optical-coatings.com) The Customer, its employees and sub-contractors have the right to access information held about it in accordance with the Data Protection Act 1998.

15. Termination

- (1) Without limiting our other rights or remedies, we may terminate the Contract with immediate effect by giving written notice to the Customer if:
  - a. the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of being notified in writing to do so;
  - b. the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
  - c. the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
  - d. the Customer's financial position deteriorates to such an extent that in our opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- (2) Without limiting our other rights or remedies, we may suspend the Services or delivery of the work pieces under the Contract or any other contract between the Customer and us if the Customer becomes subject to any of the events listed in sub-sections 15(1)a to 15(1)d, or if we reasonably believe that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.
- (3) Without limiting our other rights or remedies, we may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 7 days after being notified in writing to make such payment.
- (4) On termination of the Contract for any reason the Customer shall immediately pay to us all of our outstanding unpaid invoices and interest.

General Terms & Conditions of Processing of  
Optical Coating Technologies Limited  
October 2018

- (5) Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract that existed at or before the date of termination.
- (6) Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

16. Miscellaneous Provisions

- (1) The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law.
- (2) Each party irrevocably agrees that the English courts shall have non-exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).
- (3) If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- (4) A person who is not a party to the Contract shall not have any rights under or in connection with it.

Optical Coating Technologies Limited  
November 2018