

# General Terms & Conditions of Sale and Delivery

Optical Coating Technologies Ltd

November 2018 edition

## 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 sale and delivery ("Sale and Delivery 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.
- (3) These Sale and Delivery Terms apply to contracts for the sale and/or supply of goods ("Goods") regardless of whether we manufacture the Goods or purchase them from suppliers. Our General Terms and Conditions of Processing, which differ in part, shall apply where we handle the processing, coating, or finishing of items that are provided to us directly or indirectly by our Customer or which we obtain at the Customer's request or specification.
- (4) Unless otherwise agreed, the version of the Sale and Delivery 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 Goods ("Order") shall apply to that Order and all future Orders without requiring us to refer to the Sale and Delivery Terms again in each individual case.
- (5) No variation of these Sale and Delivery 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.
- (6) If we agree to vary terms with a Customer (for example, by side agreement, or amendment), those varied terms shall take precedence over these Sale and Delivery Terms.
- (7) Any notice or other communication given to a party under or in connection with the Contract (as defined in sub-section 2(3)) 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 subsection 1(7); 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 subsection 1(7) shall not apply to the service of any proceedings or other documents in any legal action.
- (8) 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.

## 2. Contract Formation, Technical Advice and Intellectual Property

- (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 Goods in accordance with these Sale and Delivery Terms. Unless otherwise stated in the Order, we shall have 14 (fourteen) days after receiving the Order to accept it.
- (3) 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 have made delivery of the Goods to the Customer. On acceptance, the contract for the sale and delivery of Goods ("Contract") shall come into existence.

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- (4) 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(4) shall limit or exclude any liability for fraud.
  - (5) Unless agreed otherwise in writing, these Sale and Delivery 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.
  - (6) We reserve the right to amend or supplement these Sale and Delivery 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 Sale and Delivery 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.
  - (7) Any technical, physical, and chemical information we provide (e.g. weights, measurements, utility values, reliability, tolerances, and technical specifications) including any descriptions (e.g. drawings and diagrams) is provided for the sole purpose of giving an approximate idea of the Goods. They shall not form part of the Contract unless agreed by us in writing. We are permitted to make changes to the Goods 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 Goods' components with comparable components.
  - (8) 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.
3. Retention of Title
- (1) We shall retain the title to the Goods to be delivered until we receive payment in full (in cash or cleared funds) for the Goods and any other goods and/or services that we have supplied to the Customer at which time title shall pass to the Customer.
  - (2) The Customer shall store Goods subject to our retention of title ("Retained Goods") for us free of charge and separately from all other goods held by the Customer so that they remain readily identifiable as our property, and shall not be permitted to pledge them to third parties or assign them by way of security until we have received payment for them in full. The Customer shall promptly (and, in any event, within 3 days) notify us of any change in possession of the Retained Goods as well as any change of the Customer's business address.

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- (3) If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in sub-sections 10(1)b – 10(1)d inclusive, then, without limiting any other right or remedy we may have:
- a. the Customer's right to resell the Retained Goods, as provided for in sub-section 3(4) or use them in the ordinary course of its business ceases immediately; and
  - b. we may at any time:
    - i. require the Customer to deliver up all Retained Goods in its possession that have not been resold, or irrevocably incorporated into another product; and
    - ii. if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Retained Goods are stored in order to recover them.
- (4) The Customer is entitled to resell and/or process the Retained Goods in the ordinary course of its business and, in such circumstances, the following shall apply: a. Further processing/manufacturing:
- i. If the Retained Goods are processed by the Customer then it is agreed that the processing shall be carried out on our behalf and on our account as the manufacturer and we shall directly acquire ownership of the processed Retained Goods.
  - ii. If the processing is to be carried out using materials sourced from multiple suppliers or the value of the processed Retained Goods is higher than the value of the Retained Goods, we shall have co-ownership (as tenants in common) of the processed Retained Goods in such proportion that reflects the value of the Retained Goods to the processed Retained Goods. If we acquire such ownership, the Customer shall be deemed to have transferred the Customer's future ownership or co-ownership of the newly created item to us in the proportion specified in this sub-section as security.
  - iii. If the Retained Goods are combined with other materials into a uniform item or become inseparably intermixed with other materials (in both cases, forming a newly created item), then the Customer shall be deemed to have transferred the Customer's co-ownership of the newly created item in such proportion that reflects the value of the Retained Goods.
- b. If the Customer resells the Retained Goods, the Customer shall be deemed to have assigned any claim for non-payment against the purchaser to us (or the relevant proportion if we have co-ownership of the Retained Goods under subsection 3(4)a, above). Any other claims related to or connected with the Retained Goods, such as insurance claims or claims in tort in the event of loss or destruction, shall also be deemed to have been assigned to us by the Customer.
  - c. If the Customer remains entitled to bring a claim relating to the Retained Goods (in addition to us) we undertake not to pursue or advance the claim PROVIDED THAT the Customer fulfils its payment obligations to us, there is no breach of the Contract by the Customer, and we do not exercise retention of title in accordance with subsection 3(3). If, however, the foregoing conditions cannot be met, we may demand that the Customer discloses to us the assigned claims and their debtors, provides all of the information required for collection, delivers up the related documents, and notifies the debtors (third parties) of the assignment. In this case, we shall also have the right to revoke the Customer's right to resell and process the Retained Goods.
  - d. If the realisable value of the securities exceed our claims by more than 30% then we will release securities at our choice upon the request of the Customer.
- (5) The Customer shall inform us immediately in writing if:
- a. the Customer becomes subject to or suffers any of the events listed in sub-sections b to c inclusive; or
  - b. if the Retained Goods are damaged or destroyed.
- (6) If a third party takes possession of or acquires the Retained Goods, then the Customer shall advise them of our ownership of the same, and immediately inform us of such possession or acquisition in order to enable us to assert our proprietary rights. If the third party is not capable of reimbursing us for the court costs or out-of-court costs incurred in relation to our assertion of such proprietary rights then the Customer shall be liable to us for these costs.

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4. 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 Goods 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 Goods. 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 Goods not yet delivered 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 in delivery, without undue delay.
- (3) If we are late in the performance of the delivery or service or if it becomes impossible for us to perform a delivery or Service for whatever reason then our liability for damage compensation shall be limited in accordance with section 8 of these Sale and Delivery Terms.

5. Delivery, Passing of Risk, Acceptance and Default in Acceptance

- (1) We deliver all Goods from our warehouse located in Tamworth, which is also the place of fulfilment of Orders and any related performance. At the request and expense of the Customer, we can also send the Goods to a different destination. Unless otherwise agreed, we have the right to determine the method of shipment (particularly the carrier, route, and packaging) based on our expertise and judgment. If we are to carry out installation of the Goods then the place of fulfilment is the place where the installation is to occur.
- (2) Risk in the Goods shall, subject to sub-section 5(3), pass to the Customer on completion of delivery. Where we are using a third party delivery service, risk in the Goods shall pass to the forwarder, carrier, or other person assigned to carry out the shipment at the start of the loading process from our warehouse. This applies even if we have agreed to make partial deliveries or if we have agreed to perform other services (e.g. dispatch or installation). If delivery is delayed as the result of a circumstance for which the Customer is responsible then the risk shall transfer to the Customer on the day on which we notify the Customer that the Goods are ready for dispatch.
- (3) If the Contract requires the Customer to inspect and confirm acceptance of the Goods on delivery ("acceptance"), then risk in the Goods shall pass at the time of acceptance.

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- (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 Goods; 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 Goods 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 Goods; or (b) 10% of the net price of the relevant Goods if the Customer fails to provide acceptance or take receipt of the Goods. 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 5(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 5(4) shall be offset against damages awarded to us for a Customer Delay so as to prevent so called "double recovery".
- (6) We will, at the Customer's express request and expense, insure shipments against theft, breakage, transport damage, fire damage, water damage, or other insurable risks.
- (7) 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.

### 6. Price and Payment

- (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 any packaging and transport, both of which we shall charge in addition. The Customer shall be responsible for any customs duties, fees, taxes, and other charges.
- (2) The Customer shall pay all invoices in full within 10 (ten) days of delivery/acceptance of the Goods and receipt of 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 6(4), below.
- (3) In certain circumstances, we may require advance payment in full or in part, in order to carry out a delivery. 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 Sales and Delivery Terms, under subsection 1(4) apply).
- (4) 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.
- (5) We may, by giving written notice to the Customer at any time before delivery of the Goods, increase the price of the Goods to reflect any increase in the cost of the Goods 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), quantities and types of Goods 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.

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- (6) The Customer shall pay all amounts due under the Contract in full and shall not be entitled to any set-off, 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.
7. Warranty
- (1) We warrant that on delivery, and for a period of twelve months following the date of delivery (the "Warranty Period") the Goods shall:
- a. conform in all material respects with their description and any applicable specification; and
  - b. be free from material defects in design, material and workmanship.
- (2) Subject to sub-section 7a to sub-section 7(11) inclusive, 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 Goods do not comply with the warranty set out in sub-section 7(1);
  - b. we are given a reasonable opportunity of examining such Goods; and
  - c. the Customer (if asked to do so by us) returns such Goods to our place of business at our cost, we shall, at our option, repair or replace the defective Goods, or refund the price of the defective Goods in full.
- (3) We shall not be liable for the Goods' failure to comply with the warranty set out in sub-section 7(1) in any of the following events:
- a. the Customer makes any further use of such Goods after giving notice in accordance with sub-section 7(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 Goods 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 Goods 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; or
  - f. the Goods 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 Goods 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 Goods which have been installed or for re-installation of replacement or repaired Goods if we were not originally obliged to provide installation.
- (6) In exceptional circumstances (for example, if operational safety is jeopardised as result of defective Goods or if the Customer is defending an unreasonable claim for damages directly attributable to the defective Goods), the Customer has the right to repair, or to procure the repair of, the defective Goods and to demand reimbursement of the reasonable costs directly incurred by it in repairing such defective Goods. 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 Goods pursuant to this sub-section 7(6).
- (7) If we fail to replace or repair the defective Goods 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.

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- (8) If we are unable to repair or replace defective Goods 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 subsection 7(8), and in accordance with these Sale and Delivery Terms, if the claims against the manufacturer and supplier, specified above, are unsuccessful or appear to have no prospect of success, e.g. due to their insolvency. The limitation period of the Customer's warranty claim against us in question shall be suspended for the duration of our claim against the relevant manufacturer or supplier.
- (9) Except as provided in this section 7, we shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in sub-section 7(1).
- (10) The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- (11) These Sale and Delivery Terms shall apply to any repaired or replacement Goods supplied by us.

### 8. Limitation of Liability - WE DRAW YOUR PARTICULAR ATTENTION TO THIS SECTION 8 AS IT CONTAINS PROVISIONS WHICH EXCLUDE AND LIMIT OUR LIABILITY

- (1) The Customer alone bears the risk arising from their use of the Goods delivered by us and in the absence of express agreements to the contrary we are not liable for the suitability of the Goods for the Customer's intended purpose. 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 Sale and Delivery 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; or
  - 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 subsection 8(1):
  - 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) If our attempt of repair of defective Goods fails and the Customer opts to receive damages then the Goods shall remain with the Customer, if this is reasonable for the Customer. In this case the amount of damages shall be limited to the difference between the purchase price and the value of the defective Goods.

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- (5) 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 Sale and Delivery Terms by statute, common law or otherwise are excluded to the fullest extent permitted by law.

### 9. 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 Goods to the Customer and to process the Customer's payment for the Goods, 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 Goods 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.

### 10. 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:
- 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;
  - 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;
  - the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
  - 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 delivery of the Goods 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-section 10(1)(b) – 10(1)(d) inclusive, or 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.
- (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.

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(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.

11. 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.

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