

**GENERAL PURCHASE CONDITIONS FOR MACHINES AND PLANTS  
UNITED STATES**  
(from August 1, 2018)

**1. DEFINITIONS**

In these conditions unless the context otherwise requires the following words shall have the meanings hereby prescribed:

- 1.1 "Buyer" means Polytec Car Styling Bromyard Limited;
- 1.2 "Seller" means the person, firm or company to whom the Order is addressed;
- 1.3 "Order" means this purchase order issued on behalf of the Buyer, any delivery schedules applicable thereto, the Buyer's item numbers and any other documents relevant thereto;
- 1.4 "Goods" means the articles or things to be supplied;
- 1.5 "Services" means the work to be carried out by the Seller pursuant to the Order;
- 1.6 "Specification" means any technical requirement, description, plans, drawings, data or other information applied to the Goods or Services contained or referred to in the Order;
- 1.7 "Completion Date" shall mean the date upon which the Goods shall be delivered or the date by which the Services shall have been completed in accordance with the Order;
- 1.8 "Contract Conditions" shall mean these conditions and any terms set out in the Order. All other sales conditions of the Seller (e.g. in the order confirmation, quotation or otherwise) are null and void, unless they are expressly approved by the Buyer in writing signed by an officer of the Buyer.

**2. VALIDITY AND STATUS OF ORDER**

- 2.1 The Buyer shall be bound by the Order only if:
  - 2.1.1 it is placed with the Seller on the Buyer's official order form; and
  - 2.1.2 it is accepted by the Seller either providing to the Buyer a written acceptance within 10 days of the date of the Order or commencing execution of the Order.
- 2.2 The terms and conditions contained herein shall govern the Order and relationship of the parties to the exclusion of any other terms and conditions not incorporated or referred to in the Buyer's Order.
- 2.3 Acknowledgement of an Order shall constitute the Seller's acceptance of the Contract Conditions to the exclusion of all others including any which may be printed on the Seller's documents.
- 2.4 The Buyer may unilaterally by written notice amend the Order and the Seller shall comply with that amendment forthwith. Within 7 days of receipt of any such notice the Seller shall submit to the Buyer a statement of the consequences of such amendment and as soon as practicable the parties shall agree any necessary and reasonable adjustments to the Order reflecting those consequences.
- 2.5 The Order is based on the principle that the Seller shall remain competitive with respect to price, quality, innovative capability and security of supply.
- 2.6 The Goods or Services provided by the Seller shall constitute in themselves a complete system or shall be part of a complex complete system to be constructed. As a result, disruptions to individual services generally create implications in the overall project organisation with corresponding additional costs. The Seller undertakes to fulfil the order with particular care.
- 2.7 The Seller must inform the Buyer of any changes to the contents of the order confirmation in comparison to the contents of the offer, which the Seller unilaterally undertakes without consulting the Buyer.

**3. PLACE OF PERFORMANCE, COMPLETION DATE, MILESTONES**

- 3.1. The place of performance is the respective plant to be supplied or the delivery site stated in the Order.
- 3.2. Time is deemed to be of the essence. Agreed Completion Dates and periods are binding. The Goods or Services must be delivered in accordance with the due dates stated in the Order. The Order must be carried out according to the instructions of the Buyer. The Seller must provide/deliver the Goods or Services on time, taking into account the usual time for loading and shipping, if any.
- 3.3. Title to the Goods shall pass to the Buyer on delivery or acceptance, if acceptance is agreed, without prejudice to any right of rejection or revocation of acceptance which may accrue to the Buyer under these conditions.

- 3.4. Formal acceptance is considered as agreed for the contractually agreed Goods or Services. This acceptance shall take place at the place of performance specified by the Buyer. The Seller is responsible for requesting specification of an acceptance date in writing. Acceptance must take place immediately and for machines and plants for which a trial operation is necessary, within a period of 4 weeks at the earliest and 3 months at the latest after start of the trial operation and receipt of full and correct documentation upon the Buyer's request. If possible, the machine can also be used for production during this period (trial operation). Each party shall bear their own respective (personnel) costs incurred for acceptance of the machine.
- 3.5. The Buyer shall confirm successful acceptance by means of an acceptance certificate which is to be signed by the Buyer's management.
- 3.6. Completion of erection shall be considered achieved upon conclusion of assembly by the Buyer and if commissioning begins at the place of performance.
- 3.7. Cold commissioning shall be considered completed if the entire set-up, both the individual units and the fully interconnected plant, have been tested without load and all equipment, components, steering controls and safety devices etc. have been checked for correct functioning or tuned to the nominal values (CE acceptance). In addition all control loops must be checked for function and preconfigured.
- 3.8. The performance test shall be considered passed if all specified performance data of the complete system has been demonstrated to be achieved and operations management has been assured in accordance with the requirements of the Contract Conditions or Order, provided that the Goods or Services are performed in accordance with the Contract and free of defects.

**4. DELIVERY**

- 4.1. In the event of any default by the Seller and without prejudice to any other rights available to the Buyer, the Buyer may have the Goods or Services provided by a third party and the Seller agrees to pay to the Buyer the difference in price of the replacement Goods or Services and shall also pay all costs, fees, including attorney fees, and all incidental, consequential and other damages, incurred by the Buyer in procuring the replacement Goods or Services. The Buyer shall also be entitled to withhold payment of the price or a proportion thereof of the Goods or Services being the subject of the Order.
- 4.2. In case of early performance of Goods or Services, which may occur only after express written consent from the Buyer, the payment period shall only begin upon the originally agreed Completion Date. If written consent has not been given, the Buyer is entitled to decline acceptance. Regardless of whether prior consent has been given, the Seller must compensate the Buyer's expenses and incidental, consequential and all other damages incurred through premature deliveries or partial deliveries. If these deliveries result in increased transportation, storage or other costs, these must be borne by the Seller.
- 4.3. The Seller must inform the Buyer immediately about any circumstances that could lead to disruptions to delivery and particularly to delayed or only partial performance of the Goods or Services. In doing so, the Seller must communicate to the Buyer the relevant information as well as measures with which the Seller shall avoid disruptions to delivery or lessen their consequences. Seller informing the Buyer of circumstances that could lead to disruptions, delays or partial performance does not restrict Buyer in any way from recovering any and all damages and costs it may be entitled to as provided herein.
- 4.4. Notwithstanding any other right or remedy contained in the Contract Conditions, Order or at law which is available to the Buyer in respect of any delay in delivery of the Goods or any delay in completion of the Services of the Seller, the Buyer reserves the right to recover liquidated damages from the Seller for any delay in delivery of the Goods or any delay in completion of the Services at the rate of 5 % of the total price stated in the Order for each week or part of a week of delay.
- 4.5. Such liquidated damages may be deducted by the Buyer from any sums due to the Seller.
- 4.6. If the Completion Date is changed by the Buyer or if the Seller is otherwise prevented from delivery by the Buyer resulting in a changed Completion Date any delay past the changed Completion Date shall still be considered similarly subject to the liquidated damages (i.e. it shall

- only result in postponement of the Completion Date subject to the liquidated damages, but not in cancellation of the liquidated damages).
- 4.7. Should the Completion Date agreed to in the Order change for reasons not due to the Buyer, the Seller, in addition to the damages owed to Buyer, agrees to undertake proper storage of the Goods for the Buyer for up to 3 months at the cost and risk of the Seller. In the event of storage, total or partial deliveries are only permitted after written shipment release by the Buyer.
- 5. PACKAGING AND SHIPPING**
- 5.1. The Seller shall ensure that the Goods are properly packed and secured in accordance with the instructions of the Buyer (where specified) and shall deliver the Goods to the Buyer at the place or places and in the manner specified in the Order on the Completion Date.
- 5.2. Unless otherwise specified in the Order, the Seller must perform the delivery DDP to the place of performance according to Incoterms 2010 and select the freight and delivery options most favourable for the Buyer.
- 5.3. Shipping shall be at the Seller's cost and risk unless otherwise agreed in writing. Risk in the Goods shall pass to the Buyer on completion of delivery and accordingly any Goods lost or damaged in transit shall be replaced by the Seller forthwith at Seller's own cost upon receipt of notification from the Buyer of such loss or damage. The risk for constructed buildings, steel structures, machines and other facilities is only transferred to the Buyer after acceptance has taken place by a designated representative of Buyer.
- 5.4. The Seller shall ensure that each delivery of Goods is accompanied by a delivery note which sets out the Order number and full details of the Goods supplied including the Buyer's item number (where applicable). The Seller shall state the Order number on all correspondence (including emails) relating to the Goods.
- 5.5. The Seller shall not without the consent of the Buyer make any charge for casks, packages, drums, containers or other re-usable items of any description nor for the cost of return thereof.
- 5.6. In the event that Goods are delivered to the Buyer in excess of the quantities ordered, the Buyer shall not be bound to pay for such excess and the excess shall be and remain at the Seller's risk and shall be returnable at the Seller's expense.
- 6. INSURANCE**
- 6.1. Unless agreed to otherwise by Buyer in writing, when the Seller undertakes to supply Goods or Services then the Seller shall maintain, not less than, the following types of insurance 1) *General Liability Insurance*: \$10 million in the aggregate; \$5 million per occurrence; \$2 million personal and advertising injury; \$2 million products-completed operations aggregate; \$1 million fire damage (any one fire); \$500,000 medical expense (any one person limit), 2) *Automobile Liability*: \$1 million combined single limit, 3) *Workers' Compensation*: Statutory coverage, employer's liability \$500,000 each accident and \$500,000 disease (each employee). In no event shall Seller's insurance be less than the full replacement value of the Goods or Services to be provided to Buyer.
- 6.2. The insurance will be maintained with an insurer which at the Buyer's option shall be subject to its approval and the Seller shall if requested to do so by the Buyer ensure that either the policy is effected in joint names of the Buyer and the Seller or the beneficial interest of the Buyer is noted on the face of the insurance policy. The Seller will whenever requested by the Buyer produce to the Buyer a copy of the policy and the receipt for payment of the current premium and will advise the Buyer forthwith of any act or omission which may lead to the cancellation or non-renewal of the insurance.
- 6.3. The Seller shall procure that any subcontractor maintain insurance similar (but of no lesser amount) to that required of the Seller by sections above.
- 6.4. Should the Seller or any subcontractor maintain insurance pursuant to this clause in excess of the minimum amounts required above then the Buyer shall be entitled to the benefit of all that insured sum.
- 6.5. In the event that the Seller fails to comply with this clause the Buyer may at its option provide such insurance and the Seller shall be obligated promptly to reimburse the Buyer with the relevant premiums. Seller's failure to maintain insurance pursuant to this clause shall not affect Seller's liability for all costs and/or damages Seller may be liable for in accordance with these Contract Conditions.
- 7. CONTRACT PRICE AND PAYMENT TERMS**
- 7.1. The total price of the Goods or Services (hereinafter referred to as the "Contract Price") is stipulated in the Order. The price shall be a fixed price which includes all expenses for the Seller connected with performance of the Contract and any applicable taxes.
- 7.2. No heavier obligations can be imposed on the Buyer from subsequent exchange rate changes than would have arisen to it on the basis of the originally agreed exchange rate.
- 7.3. Original invoices must be sent to the Buyer immediately after acceptance of the Goods and/or Services by Buyer electronically or in duplicate at the request of the Buyer. The copy must be expressly identified as such. Invoices sent by fax or email shall not be considered for the start of the payment period.
- 7.4. Invoices must state the name and address of the Seller, the Order number and delivery note number, the name of the Buyer's purchaser as well as the shipping method.
- 7.5. Performance calculations must be added to the underlying documents.
- 7.6. Reference is made to the necessity for compliance with statutory provisions on accounting with regard to the minimum content etc.
- 7.7. Unless otherwise stated in the Order, payment of the invoice shall be made after a minimum of 60 days following the end of the month of the date of invoice or acceptance, whichever shall be the later, provided always that the Buyer shall be under no obligation to pay for Goods or Services rejected under the provisions of Clause 11. The Seller is not entitled to offset its claims from claims of the Buyer.
- 7.8. The Buyer has the right to withhold a security deposit in the amount of 10 % of the total Order value as a non-interest bearing assurance of performance, warranty, guarantee or damages claims for a period of 45 days beyond the warranty period. This also applies in the event of the Seller's insolvency.
- 7.9. Approval of the last payment shall only take place when there is a final invoice concerning all deliveries/services performed according to the Order, contract for work as well as technical specifications and related claims.
- 7.10. By submitting the final invoice, the Seller declares that it has asserted all claims from the relevant transaction and no further claims shall be made (i.e. Seller forever waives any right to further claims against Buyer related to the Order after submitting a final invoice for said Order).
- 7.11. The Buyer is entitled, regardless of further statutory rights, to settle / offset open claims it has against the Seller for its own debts, debts of POLYTEC HOLDING AG as well as its direct and indirect affiliated companies with respect to the Seller.
- 7.12. Payments by the Buyer do not signify any acknowledgement of settlement and freedom from defects.
- 8. TAXES**
- 8.1. The Contract Price shall include all applicable taxes on all labor, materials or other Goods or services to be furnished by Seller..
- 9. QUALITY AND DOCUMENTATION**
- 9.1. All Goods supplied or Services carried out shall:
- 9.1.1. Be of first class quality using the best materials and workmanship, properly and adequately packaged and where in the case of Goods samples have been provided by either party they shall be at least equal in all respects to such samples;
- 9.1.2. Conform with the quantity and description and shall comply with any Specification stated in the Order;
- 9.1.3. Be capable of any standard of performance, be safe and fit for any purpose stated in the Order.
- 9.1.4. be in mint condition and free from any encumbrance and the rights of third parties, such as for example patents, security interest or rights of lien.
- 9.2. All Goods supplied shall be free from defect whether actual or latent.
- 9.3. In the absence of another written agreement, the Seller shall deliver a complete machine or system including all parts necessary for faultless operation, even if individual parts required for this are not specified. The information provided by the Buyer is to be checked for its accuracy by the Seller, such checking of accuracy is Seller's sole responsibility. In the event that the information from the Buyer proves insufficient and/or incorrect for executing the Order, the Seller shall inform the Buyer immediately.
- 9.4. The scope of the Order includes in particular the provision of all machines, devices, scaffolding, hoists, site accommodation etc. Should the Buyer provide the items mentioned in the previous sentence, the Seller is solely liable to Buyer for any damage that may arise from their use.
- 9.5. The design (other than where the Buyer has provided a detailed design for the Goods), construction and quality of the Goods and Services shall comply in all respects with any statute, statutory rule or order or regulation at the time when the Goods are delivered or the Services rendered and that their sale or use by the Buyer will not give rise to any infringement or alleged infringement of any United States or foreign patent, trade mark, trade name, registered design, design, copyright or other proprietary or intellectual property right.

- 9.6. Without prejudice to the terms of any warranty given by the Seller in these conditions all warranties and services guarantees attaching to the Goods or Services shall not only be for the benefit of and enforceable by the Buyer but also for the benefit of and enforceable by the Buyer's customers and for users of the Goods and/or Services. The Seller shall comply with all OSHA and other safety regulations, local, state and national and international laws, directives, standards and regulations, especially regarding health and safety, environmental protection, fire protection and employment laws (in particular compliance with non-discrimination and minimum wage requirements). Any procedures are outlined in the Buyer's "Health, Safety and Environment Information and Guidelines for Contractors" a copy of which is available on request. Any Goods or Services shall be delivered in latest state-of-the-art technology.
- 9.7. The Seller must, where possible, provide a complete, yet easily understandable, user guide, to store all necessary documents and to monitor products closely. The Seller shall make available to the Buyer prior to delivery adequate information as to the use for which the Goods have been designed and tested and any conditions necessary to ensure that when put to that use the Goods will be safe, free from hazard and without risk to health either for the employees or customers of the Buyer.
- 9.8. The Seller undertakes to safely dispose of all casks, packages, drums and containers used in the supply of Goods whether hazardous or otherwise in accordance with any applicable statute, statutory rule, order or regulation.
- 9.9. Serial production may not commence until the Buyer has accepted the initial samples and has confirmed this in writing by means of an acceptance or test report signed by both contracting parties.
- 9.10. If the scope and nature of the testing, as well as the testing devices and methods have not been agreed between the Seller and the Buyer in writing, at the request of one contracting party the required level of test technology shall be determined between the respective quality departments.
- 9.11. With regard to this Clause 9, reference is made to VDA Volume 2 "Securing the Quality of Deliveries - Production Process and Product Approval PPA".
- 9.12. In the case of construction, repair, assembly and installation work in the premises of the Buyer, the Seller must adhere to the displayed fire protection regulations. The Seller can request these from the Buyer's production management department.
- 10. INSPECTION, TESTING**
- 10.1. Before delivering the Goods the Seller shall carefully inspect and test them for compliance with the Order and shall give to the Buyer a written certificate of compliance when requested. If requested so to do the Seller shall give the Buyer at least 7 days' notice of such tests and the Buyer shall be entitled to be represented thereat. The Seller shall supply to the Buyer a copy (certified as true) of the results of the said tests.
- 10.2. The Buyer will be entitled to inspect and test the Goods during manufacture processing or storage and the Services during the course of performance. If the Buyer exercises this right the Seller shall provide or procure the provision of all such facilities as the Buyer may reasonably require for the purpose.
- 10.3. If as a result of any inspection or test under sub-clause 10.1. or 10.2. above the Buyer's representative is of the reasonable opinion that the Goods or Services do not comply with the Order or on completion of manufacture or processing or carrying out are unlikely so to do he shall inform the Seller accordingly in writing and the Seller shall forthwith take such steps as may be necessary to ensure such compliance.
- 10.4. An obligation on the part of the Buyer to inspect the Goods and Services of the Seller before use is excluded. No inspection or testing carried out by the Buyer pursuant to this clause shall relieve the Seller of any of its obligations relative to the Order.
- 11. REJECTION, WARRANTY**
- 11.1. If Goods or Services are in any way defective or, in the Buyer's sole opinion, do not meet the Specification or the standard quality description level of performance or purpose stated in the Order the Buyer may without prejudice to its other rights:
- 11.1.1. Reject the Goods or Services in question or the entire delivery of which they form part (whereupon the same shall immediately become at the Seller's risk) and have the Seller credit the Buyer with the cost thereof immediately; and/or
- 11.1.2. Require the Seller promptly to replace or repair the Goods or Services in question (in situ if so requested by the Buyer) free of all cost and at the Seller's risk and any such replacement shall be subject to the Contract Conditions; and/or
- 11.1.3. Require the Seller to defray all the Buyer's additional costs, expenses and losses (whether direct, incidental or consequential) arising from such defect or non-conformity.
- 11.2. If the Seller shall fail to replace rejected Goods or to remedy rejected Services within thirty days from the date of rejection (or earlier if so requested by the Buyer) the Buyer shall (without prejudice to any other rights it may have against the Seller) be entitled to obtain other goods in replacement of the rejected Goods or obtain the services of an alternative supplier to remedy the rejected Services and the reasonable costs incurred in so doing including all losses thereby incurred by the Buyer shall be borne by the Seller.
- 11.3. For a period of 36 months after acceptance of the Goods by Buyer, Seller warrants that the Goods (i) shall be new and of the best grade of their respective kind, (ii) shall be free from all defects and (iii) shall strictly conform to the requirements in the Order and specifications of Buyer. Neither acceptance nor payment by Buyer shall waive any of Buyer's right to assert a warranty claim during the 36 month warranty period. All warranties shall inure to the benefit of Buyer, Buyer's affiliated companies, Buyer's customers and/or subsequent owners/users of the Goods. Buyer shall notify Seller within 90 days after it discovered any defect or other breach of warranty of the Goods. The Seller must immediately repair or replace the defective Good after being notified of a warranty claim and reimburse Buyer, Buyer's affiliated companies, Buyer's customers and/or subsequent owners/users of the Goods for any and all costs Buyer, Buyer's affiliated company, Buyer's customers and/or subsequent owners/users may incur as a result of Seller's breach.
- 11.4. If for the purposes of uninterrupted production the warranty remedy in Clause 11.3. is unworkable for the Buyer, the Buyer may rectify the warranty claim itself or have this carried out by a third party. The Seller shall bear all costs arising from Buyer rectifying a warranty claim by itself or by a third party. The Buyer shall inform the Seller of it doing so in advance.
- 11.5. The Buyer shall be entitled to destroy replaced parts that are not included in the analysis or are not provided to the Seller for technical analysis or overhaul. If the Seller requests their return before destroying, the Buyer shall if possible return the parts at the cost of the Seller.
- 11.6. Other statutory or contractual rights of the Buyer remain unaffected by the provisions of this Clause 11.
- 12. INDEMNITY**
- 12.1. The Seller shall indemnify, defend and hold Buyer and Buyer's affiliated companies harmless in full against all loss, damages, injury, costs, third party claims and expenses (including legal and other professional fees and expenses) arising out of, or related to or in connection with:
- 12.1.1. Defective workmanship, quality or materials;
- 12.1.2. Any act or omission of the Seller, its employees, permitted agents or subcontractors in manufacturing, supplying, delivering or removing any of the Goods or Services;
- 12.1.3. Any infringement or alleged infringement of any intellectual property rights or the rights of any third party resulting from supply of the Goods or Services or the use of the Goods or Services by the Buyer in the normal course of its business;
- 12.1.4. Any claim made against the Buyer or an affiliate of Buyer in respect of any liability, loss, damage, injury, cost or expense sustained by the Buyer's employees or agents or by any customer of the Buyer or third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, or arises from the Goods or Services and to the extent that such claim is not solely the result of the gross negligence of the Buyer, its employees or agents;
- 12.1.5. Any infringement by the Seller or its own suppliers, employees, agents or subcontractors of the intellectual property rights or the confidentiality of the Buyer.
- 12.2. Without prejudice to any other right or remedy the Buyer may have, if any of the Goods or Services are not supplied in accordance with the contract or fail to conform with the Order or the Specification, then the Buyer shall be entitled to avail itself of any one or more of the following remedies at its discretion, whether or not any part of the Goods or Services have been accepted or whether the Buyer has paid any invoice relating to such Goods or Services:
- 12.2.1. To reject any such Goods or Services (in the whole or part) and return them to the Seller at the risk and cost of the Seller on the basis that a full refund for the Goods or Services so returned will be paid by the Seller;
- 12.2.2. At the Buyer's option to give the Seller the opportunity at the Seller's expense to remedy any warranty defect in the Goods or the Services as provided in Section 11.
- 12.2.3. To revoke acceptance of the Goods or Services (in whole or in part) at anytime and be reimbursed by Seller of the full Contract Price and any and all other damages Buyer may incur as a result of the revocation of acceptance.

- 12.2.4. To carry out at the Seller's expense any work necessary to make the Goods conform with the Order or the Specification;
- 12.2.5. To claim such damages as may have been sustained in consequence of the Seller's breach of the contract; and
- 12.2.6. To obtain alternative Goods or Services from third parties at the Seller's expense.

**13. CONFIDENTIALITY AND PRIVACY**

- 13.1. The Seller agrees to keep the Order and all information obtained from the Buyer confidential, not to pass it on to third parties and not to use it for any purpose other than the purpose of the Contract, except information which (i) is or becomes general public knowledge without the fault of the Seller, or (ii) is already in the possession of the Seller, as documented in its written documents, or (iii) the Seller receives from a third party not subject to an obligation to secrecy, with said third party not having received such information directly or indirectly from the Buyer.
- 13.2. The Buyer is not obliged to pass on legally protected and/or confidential information from third parties (e.g. customers or licensors) to Seller.
- 13.3. These provisions shall also apply beyond the expiry or termination of the Contract. If the obligations under this section are not complied with, the Buyer shall be entitled to obtain an injunction, demand compensation for damage resulting from breach of this section and use other legal remedies.
- 13.4. Subcontractors of Seller are to be strictly bound to the confidentiality requirements as provided herein.
- 13.5. The Privacy Policy of POLYTEC Group is an integral part of these Terms and Conditions of Purchase and can be viewed in its most recent version at <https://www.polytec-group.com/en/Privacy>.

**14. RIGHTS OF USE, PROPERTY RIGHTS**

- 14.1. Models, drawings, dies, templates, samples, tools, specifications etc. as well as confidential information and construction data that the Buyer provides to the Seller or pays for in full may be disclosed to and/or delivered to Supplier's subcontractor(s) for the limited purpose of performance of the Order., only with the prior written consent of the Buyer and only after Supplier's subcontractors have agreed to the same terms as provided herein. The Seller shall use the confidential information and manufacturing materials exclusively for performance of the Order and deliveries to the Buyer and not for other purposes.
- 14.2. All models, tools, devices, drawings and other manufacturing equipment etc. to be prepared for the execution of the Order shall become the sole property of the Buyer and is to be labelled as such. The Seller shall grant the Buyer an irrevocable, world-wide, royalty free right and licence to use all documents made available.
- 14.3. Seller agrees to communicate and fully assign, for no additional cost, the sole and exclusive right, title and interest to Buyer of all inventions, discoveries, computer programs, algorithms, patents, copyrights, technical data, drawings, prototypes, writings and information resulting from work performed by Seller under the Order and/or made or conceived by Seller or its employees on behalf of the Buyer under the Order. The Seller shall execute or cause its employees to execute any and all documents which Buyer may deem necessary to assign or to convey to Buyer, the sole and exclusive right, title and interest in any such inventions, discoveries, computer programs, algorithms, patents, copyrights, technical data, drawings, prototypes, writings and information. The intellectual property of the Buyer and the right of use said intellectual property of the Buyer and all Buyer's documents, such as engineering, documentation, software, expertise, remains without limitation with the Buyer. The documents submitted by the Buyer to the Seller may not be fully or partially edited, copied, reproduced, translated into another language, distributed or processed (print, photocopy, microfilm or any other process), whether this be electronically or in any other way without the prior written consent of the Buyer.
- 14.4. The Seller must ensure that the Goods and the manufacturing process do not violate any rights of third parties (in particular patent rights, utility model rights, copyrights, design rights, trademark rights or other intellectual property rights), whereby the Seller agrees to fully indemnify and hold the Buyer harmless and its customers harmless of all claims by third parties for rights infringements.
- 14.5. There shall be no liability and/or indemnification obligation on the part of the Seller insofar as the Seller has manufactured the Goods according to the detailed drawings or models submitted by the Buyer and does not know or, in the context of the products it develops, does not have to know that intellectual property rights are infringed. In respect of drawings, models, etc. handed over by the Buyer to the Seller, the latter does not have any obligation to verify these.
- 14.6. In regard to Clause 14.3, should any work product relating to the Order not be fully assignable to Buyer for any reason, the Buyer shall acquire an irrevocable, world-wide, royalty free right and licence to use all

documents, drawings, sketches etc. handed over by the Seller, and shall be entitled, inter alia, to hand over the documentation obtained from the Seller or its subcontractors to its other contract partners and to use it unrestrictedly itself.

- 14.7. If joint activities of the parties, in particular in the area of development, result in production processes or materials which are patentable, the parties will agree the conditions of the registration and exploitation of this expertise separately. Under no circumstances may this agreement result in an increase in the prices of the products or the Contract Price that are the subject of this Contract.
- 14.8. The Seller is obliged to maintain and service the production equipment.
- 14.9. Further or differing agreements shall be made in separate contracts (e.g. tool contract).
- 14.10. All data, tools, patterns, materials and other equipment loaned by the Buyer to the Seller for use in connection with the Order or manufactured by the Seller at the Buyer's expense in connection with the Order shall be and will remain at all times the property of the Buyer, shall be surrendered to the Buyer upon demand in good and serviceable condition and shall be used by the Seller solely for the purpose of completing the Order. Such items shall be at the risk of the Seller and insured by the Seller at its own expense. The Buyer does not warrant the adequacy of any tooling, data, patterns, material and other equipment furnished by it nor shall Buyer be liable for any cause of action arising out of Seller's use of Buyer's data, tools, patterns, materials or other equipment, and Seller shall accept full responsibility and liability for any damage to such items or caused by such items.
- 14.11. All scrap arising from material and other items free issued by the Buyer shall remain the property of the Buyer and must be disposed of by the Seller in accordance with the Buyer's wishes and all applicable laws and regulations and the proceeds of any such disposal must be credited to the Buyer.

**15. CE MARK**

- 15.1. For Goods or Services with necessary or permitted CE mark and/or a declaration of conformity, the Seller is obliged to comply with all relevant legal requirements and to provide the CE mark on a ready-for-use machine/system and/or provide the Buyer with the necessary declarations of conformity in the language(s) required for the documentation and/or prescribed by the legal regulations (for the place of operation of the Buyer). The risk assessment is to be handed to the Buyer in each case.

**16. WORKING AT THE PRODUCTION SITE OF THE BUYER**

- 16.1. The supply of electrical energy and water as well as the heating of any necessary site accommodation will be regulated by the Buyer and the Seller by mutual agreement.
- 16.2. All work to be carried out by the Seller connected with the use of the installation/production site of the Buyer shall be carried out with the greatest possible protection of the production site and third parties.
- 16.3. The execution of such work must be agreed with the responsible technical contact person at the Buyer's installation/production site.
- 16.4. Before starting installation and/or assembly work at Buyer's installation/production site, the Seller must accept the installation/production site with all foundations, connections, etc., and check their correctness and safety. Buyer shall not be liable to Seller for any claim or damages relating to Seller's work performed at Buyer's installation/production site. Seller shall defend, indemnify and hold Buyer harmless from any cause of action or damages relating to work performed by Seller at Buyer's installation/production site.
- 16.5. Any further rights and obligations of the Seller in connection with the use of the Buyer's production site are regulated in detail in the individual contract by the document to be signed at the production site, the Seller and his authorised representatives are especially under obligation to comply with this document.

**17. NOTICES**

- 17.1. All notices, authorizations, consents and approvals given pursuant hereto shall be in writing (which shall include e-mail and confirmed facsimile transmission) in the English language to be effective and notices sent by post shall be deemed to have been given at the time when they would have been received in the ordinary course of post and notices sent by e-mail or facsimile transmission shall be deemed to have been received on the next working day following receipt.

**18. COMPLIANCE**

- 18.1. The Seller is under obligation to comply with the Code of Conduct of the Buyer. This Code of Conduct is an integral part of these Terms and Conditions of Purchase and can be viewed in its most recent version at <http://www.polytec-group.com>.

**19. TERMINATION**

- 19.1. The Order may be cancelled by the Buyer at any time in whole or in part by delivery to the Seller of a notice of cancellation. In the event of such notice being given the Seller shall stop work forthwith and comply with any directions with regard to the Goods or Services which may be given by the Buyer. The Seller shall submit an account to the Buyer at the Buyer's address within 3 months from the effective date of cancellation in the form prescribed by the Buyer. The Buyer shall compensate Seller only for its properly documented and approved costs and incurred expenses up to the time of cancellation. Such payments together with any sums previously paid to the Seller under the Order shall be the limit of the Buyer's liability relative to such cancellation and shall not in any event exceed the total price of the Goods or Services under the Order. Seller shall not be entitled to any incidental, consequential or other such damages or any anticipatory or lost profit.
- 19.2. The Buyer shall be entitled forthwith to terminate the contract by written notice if:
  - 19.2.1. The Seller commits any material breach of any of the provisions of the Contract Conditions and, in the case of such a material breach, which is capable of remedy, fails to remedy the same within 30 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied;
  - 19.2.2. An encumbrancer takes possession of or a receiver or administrative receiver, administrator or similar official is appointed over any of the property or assets of the Seller;
  - 19.2.3. The Seller makes any voluntary arrangement with its creditors, files for bankruptcy, enters into a deed of arrangement or becomes subject to an administrative order or a petition therefore;
  - 19.2.4. The Seller passes a resolution to be wound up or initiates dissolution proceedings (except for the purposes of a solvent, amalgamation, reconstruction or other reorganisation and in such manner that the company resulting from the reorganisation effectively agrees to be bound by or to assume the obligations imposed on the Seller under the contract); or
  - 19.2.5. The Seller ceases, or threatens to cease, to carry on business;
  - 19.2.6. The Seller is unable to pay its debts as they fall due;
  - 19.2.7. The financial position of the Seller deteriorates to such an extent that in the reasonable opinion of the Buyer its capability to adequately fulfil its obligations under the contract has been placed in jeopardy (i.e. Seller is unable to provide adequate assurance to Buyer);
  - 19.2.8. The Seller is subject to a change of control. "Control" means the ability to direct the affairs of the Seller, whether by virtue of the affairs of the Seller, whether by virtue of the ownership of shares or otherwise and the Seller shall inform the Buyer forthwith upon the occurrence of a change of control.
- 19.3. Upon the termination for cause as provided in Section 19.2, in addition to any other rights and remedies provided herein, Buyer shall be entitled to complete the Order itself or have it completed by a third party and Seller shall be liable to Buyer for any and all costs incurred by Buyer to complete the Order.
- 19.4. Upon the termination of the contract for any reason the Seller shall upon the Buyer's request return any Goods and/or property of the Buyer in the Seller's possession to the Buyer (to include technical drawings, any documents, manuals or software and whether in hard or electronic format).
- 19.5. Any termination or cancellation of the Order shall not prejudice any rights or remedies which may have already accrued to either Party.

**20. FORCE MAJEURE**

- 20.1. Both parties hereto shall be temporarily relieved of their obligations to the other party hereto for the duration of a disturbance that amounts to a force majeure event. For the purposes of this Contract, force majeure is defined as an event which could not be prevented by the party affected by force majeure and which prevents a party from fulfilling its obligations. Examples of force majeure are war, whether declared or not, unrest, revolution, insurrection, boycott, governmental actions, non-granting or revocation of export/re-export licences, terrorism, strike, fire, natural disasters including floods, earthquakes, typhoons, etc. The affected party is obliged, within the scope of what is reasonable, to provide the other contracting party without delay with the necessary information, to do everything possible to eliminate the disturbance and/or to mitigate the effects of the disturbance. The affected party shall also look for alternative means and ways to enable the fulfilment of the performance obligations and, where appropriate, adjust their obligations in good faith to the changed circumstances for the period of the disturbance. The original performance obligations must be fulfilled again as soon as the disturbance is no longer present.

**21. GENERAL**

- 21.1. The Seller shall not be entitled to assign or subcontract the Order without the prior written consent of the Buyer. Any permitted assignment or subcontract shall not relieve the Seller of its obligations under the Contract Conditions relative to the Order.
- 21.2. Any waiver by either party of a breach of any provision of the Contract Conditions shall not be considered as a waiver of any subsequent breach of the same or any other provision.
- 21.3. Any failure to or delay in enforcing any provision of the Contract Conditions by either party shall not be construed as a waiver by that party of the right afforded to it by that provision.
- 21.4. The Contract Conditions are in addition to any statutory or common law rights of the Buyer.
- 21.5. Conditions set out overleaf shall prevail in the event of a conflict with these conditions.
- 21.6. Buyer's liability for any cause of action related to an Order, of whatever kind and nature, shall not exceed and is limited to, the Purchase Price of said Order or Five Hundred Thousand US Dollars (\$500,000.00), whichever is less
- 21.7. Should any term of the Contract Conditions be found to be unenforceable or void then that term shall be severed from the remainder of the Contract Conditions which shall continue in full force and effect.
- 21.8. The headings used in these conditions shall be for convenience only and shall not affect the construction or interpretation of the same.
- 21.9. Any action arising out of or relating to the Order or the Contract Conditions shall be brought in the state or federal courts for Oakland County, Michigan and Seller irrevocably consents to these courts.
- 21.10. The Order and the Contract Conditions shall be governed and interpreted in accordance with Michigan law (with the exclusion of the provisions on collision law and the 1980 Vienna Convention on Contracts for the International Sale of Goods). The Contractor shall ensure compliance with all laws and regulations (in particular environmental, machine safety and occupational safety and health regulations) applicable at the time of acceptance for the delivery object and operation of such a system at the place of performance.