

## GENERAL TERMS AND CONDITIONS OF PURCHASE

(from 1 August 2018)

### 1. VALIDITY OF THESE PURCHASE CONDITIONS

These GENERAL PURCHASE CONDITIONS regulate the relationship between a seller (hereinafter referred to as the "Seller") and a company of the POLYTEC GROUP as the buyer (hereinafter referred to as the "Buyer"), insofar as an individual contract (hereinafter referred to as "Contract") does not contain any deviations therefrom, although provisions of these GENERAL PURCHASE CONDITIONS that do not deviate retain their validity. Upon agreement of these GENERAL PURCHASE CONDITIONS, all other sales conditions of the Seller (e.g. in the order confirmation) are null and void, unless they are expressly approved by the Buyer. These GENERAL PURCHASE CONDITIONS of the Buyer shall be considered approved by the Seller by the start of fulfillment of contractual obligations by the Seller at the latest. The general terms and conditions of the Seller shall not be applicable in general and even if they have not been explicitly opposed in an isolated case.

Irrespective of prepared quotes, all orders, delivery call-offs and delivery contracts as well as all amendments and supplements to these are only legally binding for the Buyer if they were issued in writing by the Buyer's authorised purchasing department. The Seller can only refer to declarations of other persons if it informs the Buyer's responsible purchasing department immediately and obtains its written confirmation. Verbal agreements require written confirmation by the Buyer's responsible purchasing department to be legally valid. This written form requirement can only be waived by means of a written agreement.

### 2. CONCLUSION OF CONTRACT

- 2.1. The Contract becomes legally binding upon conclusion of the Contract between the Buyer and the Seller, i.e. acceptance of an offer.
- 2.2. If the order is not accepted by the Seller in writing within 2 weeks, the Buyer is entitled to withdraw. Delivery schedules shall become binding if the Seller does not object in writing within two weeks of receipt of the delivery schedule or order.
- 2.3. The Contract is based on the principle that the Seller shall remain competitive with respect to price, quality, innovative capability and security of supply.
- 2.4. Delivery contracts shall also be deemed to have been effectively concluded when the Seller has commenced delivery of the order.
- 2.5. 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, DUE DATES

- 3.1. The place of performance is the respective plant to be supplied or the delivery site stated in the order.
- 3.2. Agreed dates and periods are binding. The goods/services must be delivered in accordance with the due dates stated in the order. The deliveries must be carried out according to the instructions of the Buyer. The Seller must provide/deliver the goods on time, taking into account the usual time for loading and shipping.
- 3.3. For goods/services, the date of the complete and defect-free execution of the respective Seller obligations according to the order, including the complete and correct documentation shall be the actual full date of delivery.
- 3.4. The DELIVERY OBJECT may be goods and/or services.

### 4. DISRUPTIONS TO DELIVERY, DEFAULT IN DELIVERY

- 4.1. In the event of default or disruption of delivery of the Seller, the Buyer shall be entitled to substitute performance or withdraw from the Contract after unsuccessful expiry of an appropriate grace period. The Seller is obliged to compensate the damages caused by delay in the event of default. The costs arising out of default (including additional costs due to a necessarily accelerated service to customers of the Buyer) shall be completely borne by the Seller. In the event of defective provision of goods/services, the Buyer is entitled to withhold payment in proportion to the value until proper and full performance.
- 4.2. In case of early performance of goods/services, which may occur only after express consent from the Buyer, the payment period shall only begin upon the date originally agreed. If 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 damages incurred through premature deliveries or partial

deliveries. If these deliveries result in increased transportation 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/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.
- 4.4. Should the Seller not comply with due dates, intermediate or final deadlines agreed in the order, the following liquidated damages, calculated in each case from the total order amount, until the actual date of performance, shall apply:
  - Goods and services: 0.5 % per week of default started, up to a maximum of 5 % of the total order amount;
  - Documentation: 0.5 % per week of default started, up to a maximum of 5 % of the total order amount.
- 4.5. The liquidated damages can also be deducted from the current invoices or from Seller's claims.
- 4.6. The obligation to pay liquidated damages shall arise upon occurrence of default.
- 4.7. If the scope of delivery is changed or if the Seller is otherwise prevented from delivery by the Buyer and if changes to deadlines arise as a result, which are subject to liquidated damages, the changed deadlines shall also be considered similarly subject to the liquidated damages (i.e. it shall only result in postponement of the deadlines subject to the liquidated damages, but not in cancellation of the liquidated damages).
- 4.8. Statutory claims and rights of the Buyer remain unaffected by above in the event of default and delay.

### 5. PACKAGING AND SHIPPING

- 5.1. The logistical specifications in the most current version, retrievable at <http://www.polytec-group.com/de/Geschäftseinheiten/CAR-STYLING>, shall be applicable for all deliveries.
- 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. The risk is passed on to the Buyer only after full delivery to the place of performance at Buyer. 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 person.
- 5.4. A delivery note is to be attached to the consignment, indicating the name of the Seller, the name of the Buyer, the order number, the consignment as well as the components and quantities, so that clear identification of the delivery is possible. In case of non-compliance with these shipping instructions, all damages arising shall be borne by the Seller.

### 6. INSURANCE

- 6.1. The Seller is obliged to ensure appropriate insurance cover with respect to its obligations (lump-sum product liability insurance with coverage of €5m per damage to persons/property). If the Buyer is entitled to other claims for compensation, these shall remain unaffected. Seller must prove the insurance cover to the Buyer upon request.
- 6.2. In special cases, the Buyer can request the Seller to conclude a certain type of insurance and/or insurance of a certain amount. The contracting parties shall come to a separate agreement about who shall bear the costs in these cases.

### 7. CONTRACT PRICE AND PAYMENT TERMS

- 7.1. The total price of the DELIVERY OBJECT (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.
- 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 delivery 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 agreed otherwise, payments by the Buyer shall be made within 14 days of receipt of the DELIVERY OBJECT and receipt of the original invoice with a deduction of 3 % discount or 60 days net without deduction.
- 7.8. The Seller is not entitled to offset its claims from claims of the Buyer.
- 7.9. The Buyer is entitled, regardless of further statutory rights, to settle open claims to the Seller against its own debts with respect to the Seller.

## 8. TAXES

- 8.1. Each of the contracting parties is obliged for the payment of the taxes concerning it.

## 9. LIABILITY FOR DEFECTS, WARRANTY

- 9.1. The DELIVERY OBJECT must comply with these GENERAL PURCHASE CONDITIONS, the characteristics guaranteed by the Seller, the technical specification, the latest state-of-the-art technology and the agreed quality and function, be suitable for the particular purpose/case and be manufactured in accordance with generally accepted industry standards. Goods shall be in mint condition and free from the rights of third parties, such as for example patents or rights of lien.
- 9.2. Complaints of externally discernible quality and quantity deviations as well as transport damages are considered reported in time if the Buyer informs the Seller within three working days from receipt of the goods at the place of performance. Complaints of latent defects are considered reported in time if the Seller is informed within three working days after their discovery. For defects of deliveries, the Seller must immediately seek remedy (replacement of deliveries, sorting or reworking etc.).
- 9.3. Unless specifically agreed otherwise, the warranty period shall be 36 months following proper acceptance of the goods/services by the Buyer. For goods/services which are replaced, the Buyer shall be entitled to a new warranty period of the same duration from the date of the replacement.
- 9.4. An obligation on the part of the Buyer to inspect the goods and services of the Seller before use is excluded.
- 9.5. A warranty case shall exist if a defect occurs within the warranty period. The warranty obligation of the Seller consists primarily in the repair or exchange of verifiably defective goods. Replacement deliveries must take place to the same delivery site as the first delivery.
- 9.6. If for the purposes of uninterrupted production the procedure according to Clause 9.5. is unreasonable for the Buyer or such action appears appropriate to minimise such damage, the Buyer may rectify the defect itself or have this carried out by a third party. The Seller shall bear all costs arising. The Buyer shall inform the Seller of the defect removal appropriately in advance.
- 9.7. 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.
- 9.8. Other statutory or contractual rights of the Buyer remain unaffected by the regulations of this Clause 9.
- 9.9. If the Seller has concerns against the proposed type of contract execution desired by the Buyer, the Seller must communicate these in writing immediately. Only valid concerns shall have influence on the originally arranged delivery deadline.

## 10. LIABILITY

- 10.1. The Seller expressly indemnifies the Buyer from claims against the Buyer based on product liability, claims and the expenses and damages arising from them, if the product defect has been caused by the Seller.
- 10.2. The Seller is liable for the costs arising from measures of the Buyer to prevent damage and for damages incurred, if this measure is based on the defectiveness of the goods delivered by the Seller or another violation of duty by the Seller.
- 10.3. The Seller shall support the Buyer adequately upon request in the solving and preventing of third party claims.
- 10.4. Other statutory or contractual rights of the Buyer remain unaffected by the regulations of this Clause 10.
- 10.5. In addition to compensation for its own damages, the Buyer may demand the compensation of damages of companies affiliated with the Buyer, as if these were the Buyer's own damages.

## 11. QUALITY AND DOCUMENTATION

- 11.1. The Seller guarantees the DELIVERY OBJECT's impeccable quality in terms of materials and workmanship. The Seller complies with all safety regulations, national and international laws, directives, standards (Ö-

Norm, VDA and AIAG standards, etc.) and regulations, especially regarding health and safety, environmental protection and fire protection (in particular compliance with the minimum wage). Unless specifically agreed otherwise, all deliveries shall constitute latest state-of-the-art technology.

- 11.2. The Seller must, where possible, provide a complete, yet easily understandable, user guide, to store all necessary documents and to monitor products closely.
- 11.3. 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.
- 11.4. 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.
- 11.5. With regard to this Clause 11, reference is made to VDA Volume 2 "Securing the Quality of Deliveries - Production Process and Product Approval PPA".
- 11.6. The Seller is under obligation to comply with the Customer Specific Requirements of POLYTEC as amended, available at <http://www.polytec-group.com/de/Geschäftseinheiten/CAR-STYLING>. This regulation shall be an integral part of every contract.
- 11.7. 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.

## 12. CONFIDENTIALITY AND PRIVACY

- 12.1. The Seller agrees to keep 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 a general state-of-the-art technology 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, without this third party having received such information directly or indirectly from the Seller.
- 12.2. The Buyer is not obliged to pass on legally protected and/or confidential information from third parties (e.g. customers or licensors).
- 12.3. 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 demand compensation claims and use other legal remedies.
- 12.4. Subcontractors are to be bound accordingly.
- 12.5. 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>.

## 13. RIGHTS OF USE, PROPERTY RIGHTS

- 13.1. 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 used for deliveries to third parties only with the prior written consent of the Buyer. The Seller shall use the confidential information and manufacturing materials exclusively for deliveries to the Buyer and not for other purposes.
- 13.2. All models, tools, devices, drawings and other manufacturing equipment etc. to be prepared for the execution of the order shall become the 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 to all documents made available.
- 13.3. The intellectual property and the right of use of the Buyer to all 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.
- 13.4. 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 indemnifies the Buyer and customers of the latter in this respect of all claims by third parties for rights infringements.
- 13.5. There shall be no liability and/or exemption 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 industrial 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.

- 13.6. The Buyer shall acquire an irrevocable, world-wide, royalty free right and licence to use to 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.
- 13.7. 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 that are the subject of this Contract.
- 13.8. The Seller is obliged to maintain and service the production equipment.
- 13.9. Further or differing agreements shall be made in separate contracts (e.g. tool contract).

#### **14. CE MARK**

- 14.1. For goods/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.

#### **15. MISCELLANEOUS**

- 15.1. The Buyer may demand changes to the DELIVERY OBJECT (e.g. in construction and execution) at any time. Any resulting additional or reduced costs as well as an adjustment of the deadlines shall be settled by mutual consent.
- 15.2. The Seller is free to assign parts of the Contract to subcontractors. However, the Seller shall remain responsible to the Buyer.
- 15.3. The Seller may only assign its rights and obligations under this Contract with written consent of the Buyer. Such consent may not be refused if the position of the party concerned is not diminished in any way by the assignment.
- 15.4. No party shall be prosecuted in cases of force majeure. 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.
- 15.5. Should a provision of these GENERAL PURCHASE CONDITIONS be or become invalid, this shall not affect the validity of the rest of the Contract.

#### **16. COMPLIANCE**

- 16.1. 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>.

#### **17. TERMINATION**

- 17.1. The Buyer may terminate the Contract at any time by giving a one-month notice period.
- 17.2. Either contracting party may terminate the contractual relationship without notice for important reasons without observance of notice periods. An important reason is when contractual obligations have been violated or where significant changes in one party's circumstances make adherence to the Contract unreasonable.

#### **18. PLACE OF JURISDICTION, APPLICABLE LAW, CONFLICT**

- 18.1. The place of jurisdiction for all disputes that arise from and in relation to this contractual relationship shall be the registered office of the Buyer.
- 18.2. Austrian substantive law shall apply (with the exclusion of the provisions on collision law and the 1980 Vienna Convention on Contracts for the International Sale of Goods).

- 18.3. In the case of multiple language contracts and/or General Purchase Conditions, the German version shall prevail.