

## PURCHASE ORDER TERMS UK (From January 2025)

### 1. Interpretation

#### 1.1 Definitions:

**Acceptance:** acceptance of the Goods (excluding Equipment and Machinery) will take place in accordance with clause 6.1. Acceptance of the Equipment and Machinery will only be accepted following the successful completion of testing (or deemed acceptance) in accordance with clause 5.

**Bill of Materials:** a comprehensive list of all raw materials, sub-assemblies, sub-components, parts, and the quantities of each needed to create the Goods.

**Business Day:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

**Business Hours:** the period from 9.00 am to 5.00 pm on any Business Day.

**Conditions:** the terms and conditions set out in this document as amended from time to time in accordance with clause 20.4.

**Contract:** the contract between the Customer and the Supplier for the sale and purchase of the Goods and/or Services in accordance with these Conditions.

**Customer:** the relevant member of the Polytec Group whose details are set out in the Order.

**Customer Equipment:** any equipment, including tools, machinery, scaffolding, lifting gear, systems, cabling or facilities, provided by the Customer, its agents, subcontractors or consultants which is used directly or indirectly in the supply of the Goods and/or Services including any such items specified in the Order or otherwise agreed between the parties in writing.

**Customer Materials:** has the meaning set out in clause 11.

**Deliverables:** all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

**Delivery:** the delivery of the Goods to the Delivery Location on the Delivery Date.

**Delivery Date:** the date specified in the Order.

**Delivery Location:** the address for delivery of Goods as set out in the Order.

**Equipment and Machinery:** equipment and machinery supplied by the Supplier to the Customer, to which additional conditions apply in these Conditions.

**Goods:** the goods (or any part of them) set out in the Order, including Equipment and Machinery.

**Goods Specification:** any specification for the Goods, including any related plans and drawings, set out in the Order or as otherwise agreed between the Supplier and Customer in writing.

**Group:** in relation to a company, that company, any subsidiary, or holding company from time to time of that company, and any subsidiary from to time of a holding company of that company.

**Intellectual Property Rights:** patents, rights to inventions, copyright and neighbouring and related rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for

passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Order:** the Customer's order for the Goods and/or Services, as set out in the Customer's purchase order form.

**Services:** the services, including any Deliverables, to be provided by the Supplier under the Contract as set out in the Services Specification.

**Services Specification:** the description or specification for Services agreed in writing by the Customer and the Supplier.

**Supplier:** the person or firm from whom the Customer purchases the Goods and or/Services.

**Warranty Period:** the period set out in clause 3.1(d).

#### 1.2

#### Interpretation:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its successors and permitted assigns.
- (c) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- (d) Any words following the terms **including, include, in particular, for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.
- (e) A reference to **writing** or **written** includes email but excludes fax.

### 2.

#### Basis of contract

#### 2.1

These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

#### 2.2

The Order constitutes an offer by the Customer to purchase the Goods and/or Services in accordance with these Conditions.

#### 2.3

The Order shall only be valid if issued by the Customer in writing.

#### 2.4

The Order shall be deemed to be accepted on the earlier of:  
(a) the Supplier issuing a written acceptance of the Order; and  
(b) the Supplier doing any act consistent with fulfilling the Order,

at which point and on which date the Contract shall come into existence.

#### 2.5

If the Supplier fails to accept any Order within two weeks of submission, the Customer shall have the right to revoke the Order.

#### 2.6

The Customer may request changes to the Specification, construction, or design of the Goods ordered at any time before Delivery. Requests must be made in writing. The Supplier will promptly inform the Customer of any impact on the Delivery

- Date and the price for the Goods. The Customer must confirm acceptance of any revised terms in writing before the changes are implemented.
- 2.7 The Supplier shall be responsible for verifying any information provided by the Customer in relation to an Order. In the event that the information provided by the Customer for the preparation of the Order proves to be insufficient and/or incorrect, or requires further clarification, the Supplier shall promptly inform the Customer before the Supplier issues its written acceptance of the Order in accordance with clause 2.4(a).
- 2.8 The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.
- 3. Goods**
- 3.1 The Supplier shall ensure that the Goods shall:
- correspond with their description and any applicable Goods Specification;
  - be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgement;
  - be complete and fully operational upon Delivery
  - where they are manufactured Goods, be free from defects in design, material and workmanship and remain so for 36 months after Delivery or such other period set out in the Order or otherwise agreed by the parties in writing;
  - comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods;
  - include all parts, accessories, manuals and instructions, necessary for the Goods to operate and function correctly, even when the Order makes no specific reference to such parts and accessories;
  - be new (unless the Order provides otherwise) and free of lien, encumbrance, or any third party right attached to the Goods;
- 3.2 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract.
- 3.3 The Supplier shall take good care of the Customer's Equipment whilst in its possession and control
- 3.4 The Customer may inspect and test the Goods at any time before Delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.
- 3.5 If following such inspection or testing the Customer considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 3.1, the Customer shall inform the Supplier and the Supplier shall, at its own cost, immediately take such remedial action as is necessary to ensure compliance.
- 3.6 The Customer may conduct further inspections and tests after the Supplier has carried out its remedial actions.
- 3.7 The Supplier shall comply with all applicable laws, enactments, orders, regulations and other instruments relating to the manufacture, packing, packaging, marking, storage, handling, and delivery of the Goods.
- 3.8 The Customer shall have the right to enter the Supplier's premises to:
- inspect the manufacturing facilities and the equipment used by the Supplier in the manufacture of the Goods;
  - inspect and take samples of the raw materials, the packaging and the Goods; and
  - inspect stock levels of Goods.
- 3.9 Inspections carried out pursuant to clause 3.8 shall be carried out during Business Hours on reasonable notice to the Supplier, provided that, in the event of an emergency, the Supplier shall grant the Customer immediate access to its premises.
- 3.10 If following an inspection the Customer reasonably considers that the Goods are not or are not likely to be as warranted under **Fehler! Textmarke nicht definiert.**3.1, the Customer shall, as soon as reasonably practicable, inform the Supplier and the Supplier shall take such prompt action as is necessary to ensure that the Goods are or will be as warranted under **Fehler! Textmarke nicht definiert.**3.1. The Customer shall have the right to re-conduct inspections after the Supplier has carried out its remedial actions.
- 3.11 The Goods shall be deemed defective upon Delivery if they suffer a defect at anytime within twelve months of Acceptance whereupon the Customer will be entitled to reject the Goods and demand replacements as soon as reasonably practicable.
- 3.12 Notwithstanding the obligations imposed upon the Supplier in the clause 3, the Customer shall have the right to repair or replacement any Goods or engage a third party to effect the repair or replacement of any Goods found to be defective during the Warranty Period in circumstances where the Supplier is not in a position to effect their own repair or replace the Goods in sufficient time to meet the Customer's reasonable requirements.
- 4. Delivery**
- 4.1 The Supplier shall ensure that:
- the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
  - each Delivery of the Goods is accompanied by a delivery note which shows the name and address of the Supplier, the name and address of the Customer, the date of the Order, the Order number (if any), the type and quantity of the Goods by reference to type and quantity contained within the Order (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
  - if the Supplier requires the Customer to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall be returned to the Supplier at the cost of the Supplier.
- 4.2 The Supplier shall deliver the Goods:
- on the Delivery Date;
  - at the Delivery Location; and
  - during Business Hours, or as instructed by the Customer.
- 4.3 Delivery of the Goods shall be completed on the completion of unloading the Goods at the Delivery Location.
- 4.4 Incoterm DDP (Incoterms 2020) shall apply to the Delivery unless the Order provides otherwise.
- 4.5 If the Supplier delivers more or less than the quantity of Goods ordered, and the Customer accepts the Delivery, a pro rata adjustment shall be made to the invoice for the Goods.
- 4.6 The Supplier shall not deliver the Goods in instalments without the Customer's prior written consent. Where it is agreed that the Goods are to be delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all, or any defect in an instalment shall entitle the Customer to the remedies set out in clause 8.
- 5. Specific provisions relating to Equipment and Machinery**
- 5.1 The provisions contained in this clause 5 only relate to Equipment and Machinery, and in the event of conflict between this clause and any other Condition, this clause 5 shall apply.
- 5.2 Where the Order requires the Customer to make Customer Equipment available to the Supplier, the Supplier shall be responsible for the operation of the Customer's Equipment,

- ensuring its safe handling and maintenance. The Supplier shall also maintain adequate insurance coverage for the Customer's Equipment while it is under the Supplier's control.
- 5.3 Upon Delivery, all Equipment and Machinery shall be fully operational and include all parts, accessories and consumables necessary for their proper operation, even where the said parts, accessories and consumables have not been specifically included in the Order or Bill of Materials.
- 5.4 Upon Delivery and for a maximum period of four weeks (**Test Period**) the Customer shall test the Equipment and Machinery (**Test**).
- 5.5 The Test shall be completed when:
- the Equipment and Machinery (without operating media) has been tested in single as well as full interlocking operation, and all installations, plant components as well as actuating and protective devices, and all control circuits etc. have been checked for function or set to the nominal values; and
  - the performance data of the Equipment and Maintenance as set out in the Order, or as specified by the Supplier, is achieved and operational management is ensured in accordance with the requirements of the Contract.
- 5.6 If the Test is not successfully completed or yields inconclusive results by the end of the Test Period, the Customer shall promptly (and in any event within five Business Days) notify the Supplier who shall promptly reconfigure the Equipment and Machinery (replacing any parts as shall be necessary) to meet its Goods Specifications whereupon the Customer will re-test. The Equipment and Machinery will only be deemed Accepted if:
- The Test has been completed in accordance with clause 5.5; or
  - The Customer fails to notify the Supplier of any issues with the outcome of the Test, or any other issues with the Equipment or Maintenance within 4 weeks of completion of the re-test.
- 6. Acceptance and defective Goods**
- 6.1 The Customer shall have a period of twelve (12) months from the date of delivery to inspect and test the Goods. During this period, the Goods shall not be deemed accepted by the Customer. Acceptance of the Goods shall occur only after the expiration of this twelve (12) month period, provided that the Customer has not notified the Supplier in writing of any defects or non-conformities in the Goods within this period. If the Customer provides such notice, the Goods shall not be deemed accepted until the Supplier has remedied the defects or non-conformities to the Customer's satisfaction.
- 6.2 If any Goods delivered to the Customer are not in conformity with the terms of the Contract, then, without affecting any other right or remedy available to it, the Customer may reject those Goods and:
- require the Supplier to repair or replace the rejected Goods at the Supplier's risk and expense within five Business Days of being requested to do so; or
  - require the Supplier to repay the price of the rejected Goods in full (whether or not the Customer has previously required the Supplier to repair or replace the rejected Goods); and
  - claim damages for any other costs, expenses or losses resulting from the Supplier's Delivery of Goods that do not conform with the terms of the Contract.
- 6.3 The Customer's rights and remedies under this clause 6 are in addition to the rights and remedies available to it in respect of the statutory conditions relating to description, quality, fitness for purpose and correspondence with sample implied into the Contract by the Sale of Goods Act 1979.
- 6.4 The terms of the Contract shall apply to any repaired or replacement Goods supplied by the Supplier.
- 6.5 If the Supplier fails to promptly repair or replace rejected Goods in accordance with clause 6.2(a), or if the Supplier is unable to repair or replace the rejected Goods promptly, the Customer may, without affecting its rights under clause 6.2(c), obtain substitute Goods from a third party supplier, or have the rejected Goods repaired by a third party, and the Supplier shall reimburse the Customer for the costs it incurs in doing so.
- 6.6 Where any rejected Goods remain in the possession of the Customer after replacement Goods have been supplied in accordance with clause 6.5, the Customer may dispose of the rejected Goods without liability to the Supplier, provided it gives the Supplier not less than 10 Business Days' written notice of its intention to do so. In the event the Supplier requires the rejected Goods to be returned, it shall arrange to collect the rejected Goods from the Supplier within the said notice period. If the Supplier has not collected the rejected Goods by the end of that notice period, the Customer shall be entitled to scrap the rejected Goods without further liability to the Supplier. The Customer shall be under no duty to account to the Supplier in respect of any sums received in respect of the disposal of the rejected Goods.
- 7. Supply of Services**
- 7.1 The Supplier shall from the date set out in the Order and for the duration of the Contract supply the Services to the Customer in accordance with the terms of the Contract.
- 7.2 The Supplier shall meet any performance dates for the Services specified in the Order, or that the Customer notifies to the Supplier, and time is of the essence in relation to any of those performance dates.
- 7.3 In providing the Services, the Supplier shall:
- co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;
  - perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
  - use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
  - ensure that the Services will conform with all descriptions, standards and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose that the Customer expressly or impliedly makes known to the Supplier;
  - provide all equipment, tools and vehicles and such other items as are required to provide the Services;
  - use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;
  - obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
  - observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer's premises;
  - hold all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier (**Customer Materials**) in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose of or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation;
  - not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services; or

- (k) comply with any additional obligations as set out in the Service Specification.
- 8. Customer remedies**
- 8.1 If the Goods (including all parts, accessories, manuals and instructions) are not delivered on the Delivery Date, or do not comply with the undertakings set out in clause 3.1, then, without limiting any of its other rights or remedies, and whether or not it has accepted the Goods, the Customer may exercise any one or more of the following rights and remedies:
- (a) to terminate the Contract;
  - (b) to reject the Goods (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;
  - (c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
  - (d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
  - (e) to recover from the Supplier any costs incurred by the Customer in obtaining substitute goods from a third party; and
  - (f) to claim damages for any other costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to carry out its obligations under the Contract.
- 8.2 If the Goods are not delivered on the Delivery Date the Customer may, at its option, claim or deduct by way of liquidated damages 0.5% of the price of the Goods for each day's delay in Delivery up to a maximum of 5% of the total price of the Goods. Even the Customer exercises its rights under this clause 8.2, the remedies set out in 8.1 shall remain available in respect of the Goods' late delivery).
- 8.3 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.
- 8.4 For the avoidance of doubt, the Supplier shall not be permitted to Delivery prematurely. If it attempts to do so, the Customer shall be under no obligation to take Delivery of the Goods. In the event that Customer agrees to take Delivery, it shall not be required to pay for the Goods any sooner than if the Goods had been delivered on the Delivery Date.
- 8.5 If the Services are not performed by the applicable date, the Customer may, at its option, claim or deduct 0.5% of the price of the Services for each week's delay in performance of the Services, by way of liquidated damages, until the earlier of performance of the Services or termination or abandonment of the Contract by the Customer, up to a maximum of 5% of the total price of the Services. If the Customer exercises its rights in respect of late performance under this clause 8.5 it shall not be entitled to any of the remedies set out in clause 8.1 in respect of the late performance of the Services.
- 8.6 If the Supplier has supplied Services that do not comply with the requirements of clause 7.3(d) then, without limiting or affecting other rights or remedies available to it, the Customer shall have one or more of the following rights and remedies:
- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
  - (b) to return the Deliverables to the Supplier at the Supplier's own risk and expense;
  - (c) to require the Supplier to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services (if paid);
  - (d) to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
  - (e) to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute services or deliverables from a third party; and
  - (f) to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to comply with clause 7.3(d).
- 8.7 These Conditions shall extend to any substituted or remedial services or repaired or replacement Goods supplied by the Supplier.
- 8.8 The Customer's rights and remedies under these Conditions are in addition to its rights and remedies implied by statute and common law.
- 9. Title and risk**
- Title and risk in the Goods shall pass to the Customer on completion of Delivery.
- 10. Price and payment**
- 10.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in the Supplier's published price list in force as at the date the Contract came into existence.
- 10.2 The price of the Goods:
- (a) excludes amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and
  - (b) includes the costs of packaging, insurance and carriage of the Goods.
- 10.3 No extra charges shall be effective unless agreed in writing with the Customer.
- 10.4 The price of the Goods will not increase in the event of currency fluctuations between the date of the Order and the date of Delivery.
- 10.5 The charges for the Services shall be set out in the Order and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Customer, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 10.6 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the Customer to inspect such records at all reasonable times on request.
- 10.7 The Supplier may invoice the Customer for the price of the Goods plus VAT at the prevailing rate (if applicable) on Acceptance. In respect of Services, the Supplier shall invoice the Customer on completion of the Services. The Supplier shall ensure that the invoice includes the name of the Supplier, the name of the Customer, date of the Order, the invoice number, the Customer's order number, the Supplier's VAT registration number and any supporting documents that the Customer may reasonably require. Invoices must be sent via email to the Customer's accounts department (in duplicate if requested by the Customer). Invoices sent by any other form of communication will not be deemed received until the Customer's accounts department receives the invoice via email.
- 10.8 The Customer shall pay correctly rendered invoices within 90 days of receipt of the invoice. If payment is made by the Customer within 45 days of receipt of the invoice, the Customer shall be entitled to discount the price for the Goods and/or Services (net VAT) referred to in the invoice by 3%.
- 10.9 Payment shall be made to the bank account nominated in writing by the Supplier.
- 10.10 Payment in respect of any Goods does not imply Acceptance of those Goods.
- 10.11 If the Supplier fails to make any payment due to the Customer under the Contract by the due date for payment, then the Supplier shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each date at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when the base rate is below 0%. Where a payment is disputed in good faith, interest is only payable after the dispute is resolved on sums found or agreed to be due, from the date the dispute is resolved until payment. No interest shall be payable by the Customer on any amounts due to the Supplier under the Contract.
- 10.12 The Customer may at any time, without notice to the Supplier, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. If the liabilities to be set off are expressed in different currencies, the Customer



- may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Customer of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.
- 10.13 The Supplier shall use all reasonable endeavours during the Term to reduce its manufacturing, supply and other costs for the Goods, including implementing cost savings initiatives and seeking more competitive supplies of raw materials and equipment.
- 10.14 The Supplier agrees that if at any time during the Term it sells any particular Goods to a comparable customer for less than the price then in force for that those Goods, it shall reduce the relevant price to match the lower price for so long as the lower price is available (but for no longer) and shall refund the Customer the difference. For the purposes of this clause, "comparable" means a customer that purchases Goods in substantially similar volumes as the Customer on broadly similar terms and conditions.
- 10.15 The Supplier agrees that if at any time during the Term it provides Services to a comparable customer for less than the price then in force for those Services, it shall reduce the relevant price to match the lower price and shall refund the Customer the difference. For the purposes of this clause, "comparable" means a customer that purchases Services that are substantially similar on broadly similar terms and conditions.
- 10.16 The Customer is not required to pay a deposit or advance payment for any Goods and/or Services. However, if the Supplier requires a deposit or advance payment as a condition of the Order, and the Customer agrees, the Customer will only make such payment after receiving a payment guarantee from the Supplier's bank for the full amount of the deposit or advance payment.
- 10.17 Notwithstanding the Customer's obligation to pay the Supplier's invoices in accordance with clause 10.8, the Customer shall be entitled to retain 10% of the invoice value for any Goods supplied by the Supplier against any performance, warranty or damages claims (**Retention**). The Customer shall be entitled to hold the balance of any Retention during the Warranty Period and for a period of 45 days thereafter whereupon the balance of any Retention (less any sums used by the Customer to meet any performance, warranty, indemnity, or damages claims payable under the Contract) shall be paid to the Supplier in full and final settlement of the sums payable in respect of the Goods in which the Retention was made.
- 11. Customer materials**
- The Supplier acknowledges that all materials, equipment and tools, drawings, Goods Specifications, and data supplied by the Customer to the Supplier (**Customer Materials**) and all rights in the Customer Materials are and shall remain the exclusive property of the Customer. The Supplier shall keep the Customer Materials in safe custody at its own risk, maintain them in good condition until returned to the Customer and not dispose or use the same other than in accordance with the Customer's written instructions or authorisation.
- 12. Indemnity**
- 12.1 The Supplier shall indemnify the Customer against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Customer as a result of or in connection with:
- any claim made against the Customer for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with the manufacture, supply or use of the Goods or receipt, use, or supply of the Services, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;
  - any claim made against the Customer by a third party for death, personal injury or damage to property arising out of or in connection with defects in Goods as delivered, or the Deliverables, to the extent that the defects in the Goods or Deliverables are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;
  - any claim made against the Customer by a third party arising out of or in connection with the supply of the Goods and/or Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors; and
  - any breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors.
- 12.2 This clause 12 shall survive termination of the Contract.
- 13. Insurance**
- 13.1 During the Term and for a period of one year afterwards the Supplier shall maintain in force the following insurance policies with reputable insurance companies:
- professional indemnity insurance for not less than €10 million per claim;
  - public liability insurance for not less than €10 million per claim; and
  - product liability insurance for not less than €5 million for claims arising from any single event.
- 13.2 On taking out and on renewing each policy, the Supplier shall promptly send a copy of the receipt for the premium to the Customer. On the Customer's written request, the Supplier shall provide the Customer with copies of the insurance policy certificates and details of the cover provided.
- 13.3 The Supplier shall ensure that any subcontractors also maintain adequate insurance having regard to the obligations under the Contract which they are contracted to fulfil.
- 13.4 The Supplier shall:
- do nothing to invalidate any insurance policy or to prejudice the Customer's entitlement under it; and
  - notify the Customer if any policy is (or will be) cancelled or its terms are (or will be) subject to any material change.
- 13.5 The Supplier's liabilities under the Contract shall not be deemed to be released or limited by the Supplier taking out the insurance policies referred to in clause 13.1.
- 13.6 If the Supplier fails or is unable to maintain insurance in accordance with clause 13.1, or fails to provide evidence that it has paid the current year's premiums in accordance with clause 13.2, the Customer may, so far as it is able, purchase such alternative insurance cover as it deems to be reasonably necessary and shall be entitled to recover all reasonable costs and expenses it incurs in doing so from the Supplier.
- 13.7 At the request and the cost of the Customer, the Supplier shall take out additional public liability and/or product liability insurance for cover in excess of the amounts set out in clause 13.1.
- 14. Compliance with relevant laws and policies**
- 14.1 In performing its obligations under the Contract, the Supplier shall comply with all applicable laws, statutes, regulations and codes from time to time in force.
- 14.2 Breach of clause 14.1 shall constitute an irremediable material breach of the Contract.
- 15. Data protection**
- When processing personal data on the Customer's behalf, the Supplier shall comply with the terms of the Customer's data protection policy, as updated from time to time, set out at [www.polytec-group.com/datenschutz](http://www.polytec-group.com/datenschutz).
- 16. Intellectual Property**
- 16.1 All Intellectual Property Rights in or arising out of or in connection with the manufacture, supply or use of any of the Goods which have been manufactured to the Customer's own

- Goods Specification, or in or arising out of or in connection with the Services, shall be owned by the Customer.
- 16.2 The Customer grants to the Supplier, a non-exclusive, royalty-free licence during the term of the Contract to use the Deliverables for the purpose of providing the Services to the Customer.
- 16.3 The Supplier shall not be liable for the infringement of the Intellectual Property Rights of any third party where the Goods were manufactured solely from drawings and Goods Specifications supplied by the Customer.
- 16.4 To the extent that any Intellectual Property Rights arise or are obtained in respect of anything developed by the parties jointly or otherwise than solely by either party, they shall be jointly owned in equal and undivided shares by the parties. If any such jointly owned Intellectual Property Rights are registrable, the Customer shall be responsible for the filing and prosecution of applications for registration on behalf of the parties and in their joint names in such countries as the parties agree in writing. The Customer shall be responsible for the maintenance and renewal of any such registrations in such countries, subject to the Supplier co-operating in the provision of all necessary assistance, information and instructions and bearing an equal proportion of any fees and costs, including reasonable agents and lawyers' fees, in relation to such registrations.
- 17. Termination**
- 17.1 The Customer may terminate the Contract in whole or in part at any time before Delivery of the Goods or provision of the Services with immediate effect by giving the Supplier written notice, whereupon the Supplier shall discontinue all work on the Contract. The Customer shall pay the Supplier the actual expenses it has reasonably and properly incurred up the date of termination (excluding loss of anticipated profits, or any consequential losses), for any work in progress on the Goods or Services at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.
- 17.2 Without limiting its other rights or remedies, the Customer may terminate the Contract with immediate effect by giving written notice to the Supplier if:
- (a) the Supplier commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 5 Business Days days of the Supplier being notified in writing to do so;
  - (b) the Supplier 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), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business [or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction];
  - (c) the Supplier takes any step or action in connection with the Supplier being made bankrupt, entering any composition or arrangement with its creditors, having a receiver appointed to any of its assets, or ceasing to carry on business;
  - (d) the Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
  - (e) the Supplier's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.
- 17.3 On termination of the Contract, the Supplier shall immediately return all Customer Materials and Customer Equipment. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- 17.4 Termination of the Contract, however arising, 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 which existed at or before the date of termination.
- 17.5 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.
- 18. Confidentiality**
- 18.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except as permitted by clause 18.2.
- 18.2 Each party may disclose the other party's confidential information:
- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 18; and
  - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 18.3 Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- 19. Force majeure**
- 19.1 Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control. Provided the affected party gives the other party immediate notice, the time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 8 weeks, the party not affected may terminate the Contract by giving 10 Business Days' written notice to the affected party.
- 19.2 In order to mitigate any delay or losses that either party may suffer or incur as a result of any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control, both parties shall take reasonable steps to mitigate risk by having in place a robust business interruption policy. Either party shall be entitled to ask the other party for a copy of their current business interruption policy.
- 20. General**
- 20.1 Assignment and other dealings**
- (a) The Customer may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.
  - (b) The Supplier may not assign, transfer, mortgage, charge, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Customer.
- 20.2 **Subcontracting.** The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of the Customer. If the Customer consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.

- 20.3 **Entire agreement.**
- (a) The Contract constitutes the entire agreement between the parties.
  - (b) Each party acknowledges that in entering into the Contract it does not rely on 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 based on any statement in the Contract.
- 20.4 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Customer.
- 20.5 **Waiver.**
- (a) Except as set out in clause 2.8, a waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
  - (b) A delay or failure to exercise, or the single or partial exercise of, any right or remedy by the Customer shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
  - (c) If the Supplier delays or fails to exercise any right or remedy promptly, it shall be deemed to have waived its right in respect of that remedy and it shall not be permitted to further exercise of that or any other right or remedy.
- 20.6 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this clause 20.6 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 20.7 **Notices.**
- (a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
    - (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
    - (ii) sent by email to an email address set out in the Order.
  - (b) Any notice shall be deemed to have been received:
    - (i) if delivered by hand, at the time the notice is left at the proper address;
    - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
    - (iii) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.
  - (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 20.8 **Third party rights.**
- (a) Subject to clause 20.8 Fehler! Verweisquelle konnte nicht gefunden werden. , the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
  - (b) Any member of the Customer's Group may enforce any term of the Contract on behalf of the Customer.
- (c) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 20.9 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.
- 20.10 **Jurisdiction.** Each party irrevocably agrees that any proceedings relating to any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation shall be brought in the courts in the country where the Customer holds its registered office (**Specified Courts**). Each party agrees that the Specified Courts shall have exclusive jurisdiction over such disputes or claims save that any counterclaim may be brought in any proceedings already commenced.