

General Terms and Conditions for the Sale of Software  
of Polytec GmbH, D-76337 Waldbronn (Germany) for End User License Agreements  
concerning POLYTEC-GmbH Software  
in their version of April 06, 2009

§ 1

**Coverage:**

These GENERAL TERMS AND CONDITIONS FOR THE SALE OF SOFTWARE are valid for the POLYTEC-GmbH Software (in the following called "SOFTWARE PRODUCT") as defined in each corresponding End User License Agreement (in the following called "EULA") which may comprise the computer software itself (incl. updates, drivers, applets) and any corresponding media and materials (such as manuals, accompanying databases, documentation, images, photographs, animation, video, audio, music, or text) in printed form (hard copy) or in "on line" or other electronic format.

§ 2

**Property, Copyright, Right of Use:**

The SOFTWARE PRODUCT as well as any copy thereof remains property of the POLYTEC-GmbH. The SOFTWARE PRODUCT is protected by national and international copyright laws and by other laws and regulations protecting intellectual property. By agreeing to the terms and conditions of the EULA and full payment of the sales price the Customer purchases the right to use the SOFTWARE PRODUCT in accordance with the EULA and pursuant to the GENERAL TERMS AND CONDITIONS FOR THE SALE OF SOFTWARE.

§ 3

**Extent of the Right of Use, Licences Granted:**

1. The Right of Use comprises the right to install, to use, to access, to execute, to show and run and interact in other ways with the SOFTWARE PRODUCT. Each single Right of Use requires [the purchase of] its own license, of which each is to be assigned to a single computer, a single workstation, a single terminal or a single portable PC, regardless of the user or users.
2. Storage or copying of the SOFTWARE PRODUCT on a storage device such as a network server is only allowed if that copy is used exclusively to execute the SOFTWARE PRODUCT via an internal network on its connected computers, workstations, terminals, or PCs. For each such computer, workstation, terminal, or PC, an individual license as in #1 of this section is required. A license for the SOFTWARE PRODUCT may not be split or used on more than one computer, workstation, terminal, or PC at any one time.
3. All Rights of Use not explicitly granted herein remain with POLYTEC-GmbH. This especially applies to rights to modify, multiply, and distribute.

§ 4

**Individual Rights and Limitations:**

1. The Customer may only transfer, rent, or otherwise assign the SOFTWARE PRODUCT to another end user with the consent of POLYTEC-GmbH.
2. In cases where the SOFTWARE PRODUCT as set forth in the EULA is marked "Not for Resale" or "NFR", the right of use is limited to demonstration, testing, and evaluation purposes only, and a transfer to third parties is not permitted.

§ 5

**Backup Copies:**

After installing one copy of the SOFTWARE PRODUCT in accordance with the EULA and the GENERAL TERMS AND CONDITIONS FOR THE SALE OF SOFTWARE the original medium on which the SOFTWARE PRODUCT was delivered by POLYTEC-GmbH may only be stored for safety and archiving purposes. If the original medium is required to use the SOFTWARE PRODUCT on the assigned computer a single copy of the SOFTWARE PRODUCT may be made, solely for safety and archiving purposes. In no case may [any other] copies of the SOFTWARE PRODUCT be made without express permission within the particular EULA or the GENERAL TERMS AND CONDITIONS FOR THE SALE OF SOFTWARE.

§ 6

**Warranty and Liability:**

1. POLYTEC-GmbH does not warrant the completeness or accuracy of the SOFTWARE PRODUCT. The Customer acknowledges that software cannot be produced entirely without error. Therefore the Customer will inspect the accuracy and completeness of the SOFTWARE PRODUCT by suitable and appropriate means.
2. The descriptions of the informational content and the user help functions (for example in the user manual) are regarded as description of possible uses and not as a warranty as to certain characteristics or durability of the SOFTWARE PRODUCT. POLYTEC-GmbH does not warrant any fitness of the SOFTWARE PRODUCT for any purposes intended by the Customer.
3. If the SOFTWARE PRODUCT shows defects in material or workmanship or transport damage, the Customer can return the product for a free replacement. If the delivered replacement is faulty once again, the Customer can rescind the contract. Any further warranty claims are explicitly excluded.

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4. Liability for obvious faults such as transport damage or incomplete package content can be accepted by POLYTEC-GmbH only if they are claimed in writing within 10 days after delivery to the Customer. In all other cases, the Customer can only retain his rights as per # 3 above if the claims as to the faults or defects are made to POLYTEC-GmbH within 12 months after receipt of the SOFTWARE PRODUCT.
  5. Except in cases of violations of essential contractual obligations POLYTEC-GmbH is only liable for such damages as can be attributed to malicious intent or gross negligence on the part of POLYTEC-GmbH. In such cases, the liability is limited to such damages as are typical and predictable consequences of a contract violation. Should a liability arise due to ordinary negligence, the liability shall be limited to three times the amount paid by the Customer for the SOFTWARE PRODUCT. This does not prejudice any liabilities based on the product liability law.
  6. In case of contract violations against the GENERAL TERMS AND CONDITIONS FOR THE SALE OF SOFTWARE POLYTEC-GmbH reserves the right to cancel this EULA, to demand cessation of any rights of use of the SOFTWARE PRODUCT concerned and to file for damages.
3. The Customer shall be deemed in default if it fails to remit payments due later than 15 days after receipt of the invoice or any payment-due notice equivalent. It remains within POLYTEC-GmbH's discretion to effect such default at an earlier time by issuing a reminder, to be served after the due date. Contrary to paragraphs 1 and 2 of this article, the Customer shall be in default also in such cases where it is agreed that the sales price is to be paid on a specified date and the Customer fails to remit its payment by that date. Invoices are due without discounts. Delivery may be made against pre-payment or C.O.D., especially for first-time orders or after occurrence of late payments.
  4. Payments shall be considered made only at such time when POLYTEC-GmbH has actual access to the moneys concerned.
  5. The Customer may offset counter claims against POLYTEC-GmbH's demands only after they have been determined undisputed and legally binding.
  6. The risk is transferred to the Customer no later than at the time the SOFTWARE or parts of the SOFTWARE are shipped. This applies also in case of partial deliveries or when POLYTEC-GmbH has yet to provide support services. Upon Customer's request and at its expense, POLYTEC-GmbH can insure the shipment against theft, breakage, freight, fire, and water damage, and various other coverable risks. If the shipment is delayed due to circumstances within Customer's responsibility the risk is transferred to the Customer beginning with the date the order is ready for shipment. Partial deliveries shall be permitted unless the Customer can prove that the partial deliveries represent an unreasonable imposition.

## § 7

### Protection and Privacy:

POLYTEC-GmbH is entitled to process the personal data of the Customer for purposes of the EULA. With acknowledgement of these GENERAL TERMS AND CONDITIONS FOR THE SALE OF SOFTWARE, the Customer further agrees - unless rescinded in writing - to have its individual data processed for product relevant support and for information about additional products of POLYTEC-GmbH and its partners.

## § 8

### General Provisions

1. Unless otherwise provided within the order confirmation the prices are ex factory prices, not including packing and shipping from Waldbronn or - at the discretion of PI - from the nearest airport. Orders that do not explicitly specify prices are calculated based on the list prices valid on the day of delivery. Prices "ohne Zoll" (without customs fees) are granted in case of a customs waiver presented in time and subject to approval by the customs agency.
  2. Prices do not include the legally required Value-Added Tax (VAT or "MwSt"). The VAT shall be itemized separately on the bill at the rate in effect on the billing date.
7. Place of performance for the Customer as well as POLYTEC-GmbH is the company headquarters of POLYTEC-GmbH at D-76337 Waldbronn.
  8. These GENERAL TERMS AND CONDITIONS FOR THE SALE OF SOFTWARE shall in any event supersede other sales terms and conditions of the Customer.
  9. Venue and place of jurisdiction shall be Karlsruhe (Germany) if the Customer is a merchant, a legal entity under public law or a special asset under public law (§ 38 ZPO). In any event, this contract is subject to the laws of the Federal Republic of Germany. UNCITRAL Commercial Laws shall not apply.