

Rental Terms and Conditions- THE RENTER'S ATTENTION IS DRAWN TO CLAUSE 6 REGARDING THE LIMITATION OF OUR LIABILITY

1. DEFINITIONS

“Agreement”	means the Agreement for Rent incorporating these Terms and Conditions and the Order
“Bank Holiday”	is a Day (Monday to Friday) that the banks are not open for business in England
“Date of Acceptance”	is the date the Renter signs the Agreement for Rent.
“Day”	shall be a calendar day, unless otherwise specified in the contract.
“Equipment”	covers all classes of equipment and accessories therefore, which the Owner agrees to rent to the Renter and as set out in Agreement for Rent to which these terms and conditions are attached.
“the Measurement Services”	means the services of the Owner's personnel in operating the Equipment on rent either at the Renter's premises or at the Owner's facility as set out in the Order.
“the Order”	means the Renter's s order for the Equipment and, if applicable, the Measurement Services, as set out in the order form attached hereto.
“Owner/us/we”	is Polytec Limited, a private company limited by shares and includes our successors, assigns or personal Representatives
“Rental Period”	shall commence from when the Equipment is delivered to the Renter unless otherwise agreed
“Renter /you”	is the company, firm, person, corporation or public authority taking the Owner's Equipment on rental and includes their successors or personal representatives
“Shipping Point”	means point of delivery as set out in the Order.
“the Payment”	means sums set out in the Order together with all other sums agreed between us to be payable.
“the Premise”	means location set out in the Order where the Equipment will be used or, if not expressly stated, the Owner's usual place of business.
“the Specification”	means any specification for the Equipment or Measurement Services, including any related plans

and drawings, that is agreed in writing by the Renter and the Owner.

“Working Day” is a working period of 8 hours (from 9 am to 5 pm) within a Working Week.

“Working Week” covers the period from starting time on Monday to Friday unless the day is a Bank Holiday

2. BASIS OF AGREEMENT

- a) These terms & conditions apply to the Agreement to the exclusion of any other terms that the Renter seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- b) The Order constitutes an offer by the Renter to rent the Equipment in accordance with these terms & conditions. The Renter is responsible for ensuring that the terms of the Order and any applicable Specification submitted by the Renter are complete and accurate.
- c) The Order shall only be deemed to be accepted when the Owner issues a written acceptance of the Order, at which point the Agreement shall come into existence.
- d) Any samples, drawings, descriptive matter or advertising produced by the Owner and any descriptions or illustrations contained in the Owner's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Equipment referred to in them. They shall not form part of the Agreement nor have any contractual force.
- e) A quotation for the Equipment given by the Owner shall not constitute an offer. A quotation shall only be valid for a period of 30 Days from its date of issue.

3. THIS AGREEMENT

- a) Under the terms of this Agreement, the Renter agrees to rent the Equipment from the Owner for use solely and exclusively in the Renter business at the Premises or for the Owner to utilise in the provision of the Measurement Services from the Date of Acceptance as set out in the Order.
- b) This document constitutes the whole Agreement between you and us and no change to it can apply unless such change is in writing and is signed by one of our officers and someone authorised by you.
- c) Each item of Equipment rented under this Agreement is covered individually by these terms and conditions. The term “Equipment” includes any alterations, additions or replacements.
- d) If the Renter is two or more persons they will be liable individually and together.

4. PAYMENTS

- a) The payment you must make under this Agreement are set out in the "Payments" section in the quotation provided by the Owner ("Payment").
- b) Rentals will be billed at the beginning of the Rental Period and payable within 30 days unless otherwise agreed
- c) For the Rent to Own or Purchase option or extended rentals, a net invoice payment covering the first and last month is due at the beginning of the rental.
- d) If payment is delayed over 15 days, the credit towards a future purchase will be renounced.
- e) All applicable taxes will be added to the invoice and are payable by the Renter.
- f) You must pay each payment without set off, claims, counterclaims and demands against us, it is an essential condition of the Agreement that each and every Payment is paid in full and on time (time is of the essence). You must continue to pay the Payments or any other monies due, even if the Equipment fails to operate for any reason.
- g) If any Payment or any other sums due under this Agreement are not received by us on the due date of payment, you shall also be obliged to pay us interest at the rate equal to the prevailing Bank of England Base Rate plus 5% per annum on a day to day basis, from the due date until the date of payment. This clause will apply to this Agreement both before and after any court judgment we may obtain against you and will survive and apply after termination. You will also pay us any costs and expenses incurred by us in recovering payment of such overdue amounts. If the Bank of England Base Rate is zero or below then interest is payable at 5% per annum on a day to day basis, from the due date until the date of payment.

5. MEASUREMENT SERVICE

- a) The rates charged for the Measurement Services are based on a daily fee. A day is a Working Day. The time required is estimated by the complexity and volume of the work the Renter is requesting and shall always be an approximation. The Owner does not guarantee that the measurement can be completed in the estimated time. Additional time for Measurement Services by the Owner's engineer can be ordered in half day increments.
- b) The minimum measurement service period undertaken at an Owner's Premise is one day.
- c) For measurements performed at the Owner's Premise, available necessary non-Owner test equipment such as shakers, amplifiers etc. will be included in

the rental charges. Special fixtures and other supplies will be charged separately.

6. THE EQUIPMENT AND OUR EXCLUSIONS – YOUR ATTENTION IS DRAWN TO THIS CLAUSE

- a) We are not liable for any loss or expense resulting from delay in delivering or installing the Equipment.
- b) All warranties, conditions and other terms implied by statute and common law are, to the fullest extent permitted by law excluded from the Agreement. Nothing in this Agreement excludes or limits our liability for any matter which it would be illegal for us to exclude or attempt to exclude or for fraud or fraudulent misrepresentation.
- c) We give no warranty as to the performance of the Equipment and whether it will be suitable for the purposes which you intend to use it.
- d) Except in the case of death or personal injury caused by our negligence, we are not liable for any loss, injury or damage, (including consequential or financial loss), due to any defects in the Equipment, its parts or any consumables.
- e) Except in the case of death or personal injury caused by our negligence, under no circumstances will our liability exceed the total of Payments received by us in respect of this Agreement.
- f) By signing this Agreement/ placing the Order you accept responsibility for the compatibility of the Equipment with any other equipment or network or system to which it may be connected and you expressly agree that we accept no liability arising from problems with the Equipment or its performance or with any other equipment or network or system resulting from or related to such connection.
- g) By using the Equipment and the Owner's accompanying software, the Renter acknowledges that the software is the intellectual property of the Owner and it is on a royalty-free non-exclusive, non-perpetual license for use that may be revoked by the Owner at any time.
- h) We shall have no liability or responsibility, whether by way of indemnity or by reason of any breach of this Agreement, breach of statutory duty or misrepresentation or by reason of the commission of any tort (including but not limited to negligence) in connection with the rent, for any of your loss of profit, loss of use of the Equipment or any other asset of facility, loss of production or productivity, loss of contracts with any third party, liabilities of whatever nature to any third party, and/or any other financial or economic loss or indirect or consequential loss or damage of whatever nature.

- i) The Equipment shall remain the property of the Owner until purchase by you, if ever that occurs, is completed and all monies owed by you to the Owner (including but not limited to all rental charges due pursuant to the Agreement as well as/ in addition to the purchase of the Equipment) have been paid.
- j) The minimum Rental Period for rentals is one Working Week.
- k) No warranty or representation is given by the Owner as to the accuracy of any measurements taken using by the Equipment (whether or not they are obtained as a result of the provision of Measurement Services or use of the Equipment by the Renter or any other party).

7. DELIVERY

- a) The Owner shall ensure that:
 - (i) delivery of the Equipment is accompanied by a delivery note that shows the date of the Order, the contract number, all relevant Owner and Renter reference numbers, the type and quantity of the Equipment (including the code number of the Equipment, where applicable), special storage instructions (if any) and, if the Equipment is being delivered by instalments, the outstanding balance of Equipment remaining to be delivered; and
 - (ii) if the Owner requires the Renter to return any packaging materials to the Owner, that fact is clearly stated on the delivery note. The Renter shall make any such packaging materials available for collection at such times as the Owner shall reasonably request. Returns of packaging materials shall be at the Renter's expense.
- b) The Renter shall arrange for a carrier to deliver the Equipment to the location set out in the Order or such other location as the parties may agree (Delivery Location) at any time after the Owner notifies the Renter that the Equipment is ready. All shipping costs, including cost of insurance are payable by the Renter. Shipments of any products are subject to availability from the Owner's inventory.
- c) The Owner will make a reasonable effort to meet quoted delivery times.
- d) The Owner will attempt to ship in accordance with the Renter's shipping instructions. In the absence of specific instructions, or if the Renter's instructions are deemed unsuitable, the Owner reserves the right to ship by the most appropriate method.
- e) All risk of loss and damage shall pass to the Renter at the Shipping Point.
- f) Delivery is completed on the completion of unloading of the Equipment at the Shipping Point.

- g) Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Owner shall not be liable for any delay in delivery of the Equipment that is caused by a Force Majeure Event or the Renter's failure to provide the Owner with adequate delivery instructions or any other instructions that are relevant to the supply of the Equipment.
- h) If the Owner fails to deliver the Equipment, its liability shall be limited to the costs and expenses incurred by the Renter in obtaining replacement goods of similar description and quality in the cheapest rental market available, less the price of the Equipment. The Owner shall have no liability for any failure to deliver the Equipment to the extent that such failure is caused by a Force Majeure Event or the Renter's failure to provide the Owner with adequate delivery instructions or any other instructions that are relevant to the supply of the Equipment.
- i) If the Renter fails to accept delivery of the Equipment within three Business Days of the Owner notifying the Renter that the Equipment are ready, then, except where such failure or delay is caused by a Force Majeure Event or the Owner's failure to comply with its obligations under the Agreement in respect of the Equipment:
 - (i) delivery of the Equipment shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which the Owner notified the Renter that the Equipment was ready; and
 - (ii) the Owner shall store the Equipment until delivery takes place, and charge the Renter for all related costs and expenses (including insurance).
- j) If three Business Days after the day on which the Owner notified the Renter that the Equipment was ready for delivery the Renter has not accepted actual delivery of them, the Owner may rent or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Renter for any excess over the price of the Owners or charge the Renter for any shortfall below the agreed rental price of the Equipment.

8. YOUR OBLIGATIONS

- a) You will
 - i) as an obligation surviving termination of this Agreement, indemnify us upon demand against any loss, damage, or other expenses we incur, (including legal costs on a full indemnity basis, and as a result of any third party claim or otherwise), arising directly or indirectly out of the state, condition or use of the Equipment or in any way arising out of our

- having entered into this Agreement, (except in the case of death or personal injury caused by our negligence);
- ii) immediately notify us of any defects in the Equipment. Notification of any defect does not mean that you have the rights to amend this Agreement or bring it to an end;
 - iii) ensure that the Equipment is used only in accordance with the manufacturers' instructions and that the Equipment is properly maintained;
 - iv) comply, at your own expense, with all statutory CDM and health and safety regulations (including but not limited to the training and protection of the operators of the Equipment) concerning the Equipment and the operation thereof and ensure that it is in a safe condition and that it is not used for any unlawful purpose or operated negligently;
 - v) not dispose of or let the Equipment, but (save where the Premise are under our sole control) keep the Equipment in your sole possession at the location set out in the Order;
 - vi) not assign this Agreement to someone else without our written consent;
 - vii) supply, (at your sole cost, expense and risk) all accessories, attachments, wear parts and supplies including, (without limitation) electrical equipment, lubrication oils and grease, chemicals, used in connection with the Equipment, all in accordance with the manufacturer's specifications and at your own expense dispose of any waste materials or by products created by the use of the Equipment;
 - viii) keep the Equipment free from all liens, charges and distraints and pay all taxes, outgoing and impositions in respect of the Equipment and its letting at the location specified set out in the Order;
 - ix) punctually perform all of your commitments under any other agreements or arrangements with us or with any group company of ours, as such terms are defined in the Companies Act 2006, from time to time (an 'Associated Company');
 - x) save in circumstances where you have exercised an option to purchase the Equipment, and subject to your rights set out in these terms & conditions return this Equipment, when this Agreement ends, in good order repair and condition, (fair wear and tear excepted), to such place, as we shall require, if you fail to return the Equipment to us, you will allow us immediate access to remove it and any expenses we incur in doing so will be met by you.
 - xi) during the continuance of the rental period you shall make good to us all loss or damage to the Equipment from whatever cause the same may arise, fair wear and tear excepted, and shall also fully and completely indemnify the Owner in respect of all claims by any person whatsoever

for injury to person or property caused by or on connection with or arising out of the storage, transit, transport, unloading, loading or use of the Equipment during the continuance of the rental period, and in respect of all costs and charges in connection therewith whether arising under statute or common law. In the event of loss of or damage to the Equipment, rental charges shall be continued until all payments due under this agreement are made or we exercise the right to terminate as per clause 10 below.

- xii) a Renter returning Equipment with damage or abuse from rental will be notified as soon as reasonably practicable and be given 48 hours to inspect the damages. Upon inspection or time expiration, the Renter will be invoiced for the cost to repair damages accordingly.
- xiii) provide safe and unrestricted access at the Premises during delivery, use, storage, standing or removal of the Equipment.
- xiv) not make any alterations, additions, modifications, or improvements to the Equipment and shall use it only for the purpose and in the manner for which it was intended by the manufacturer.
- xv) not permit the equipment to be used by any other party or at a different location without the express written consent of the Owner.

9. INSURANCE

You must keep the Equipment insured for all risks (including for damage in transit), (by an insurer approved by us) for the full cost of replacing the Equipment as new and require your insurers to note our interest on the policy. You must immediately inform us of any claims you make, and you appoint us as your agent to negotiate with and be solely able to agree settlement of claims and receive monies from your insurers. Any insurance monies received by us shall be applied, at our sole discretion, in repairing and replacing the Equipment or in compensating us, (any deficiency being made up by you on demand) for any loss we incur.

10. RIGHT TO TERMINATE

You may terminate this agreement at any time by giving us written notice of not less than half of the remaining rental period, and paying us the sums referred to in clause 13 below.

11. OPTION TO PURCHASE or “RENT TO OWN”

- a) By signature of this Agreement you accept that notwithstanding the making of the Payments and your liabilities under this Agreement title in the Equipment remains with us until compliance in full with clause 11(b) below

- b) If you have paid all of the Payments and any other sums due and payable under this agreement, and performed all of your obligations under it, you shall have the option to purchase the Equipment for the Option to Purchase Fee as set out in the Agreement (“the Option to Purchase”), to which will be added VAT charged at the rate which applies on the relevant date, but, until payment of the Option to Purchase Fee and any other sums due by you to us have been paid in full in cleared funds, the Equipment will remain our property.

12. DEFAULT

If, during the term of this Agreement

- i) you fail to pay any monies due to us in full, on the date they became due; or
- ii) you, or any guarantor of this Agreement, have an administrator or a receiver, (or, in any jurisdiction any similar officer), appointed over any of your assets, become insolvent or are, in our option, unable to pay your debts; or
- iii) you, or any other guarantor of this Agreement cease to trade, your partnership is dissolved or you die; or
- iv) you hold a formal or informal meeting of any or all of your creditors; or
- v) any distress, execution, sequestration, attachment or other process (including, in any jurisdiction threatened exercise of any landlords hypothec, or any other similar procedure) it is levied or enforced against or on the Equipment or against any of your assets or income, or
- vi) you are found to be given false information in connection with your entry into this Agreement; or
- vii) in our option, a material adverse change occurs in retention to your business; or
- viii) any company which is now your Holding Company ceases to be your Holding Company or there has been a change of control in your business; or
- ix) you commit any other breach of this Agreement and fail to remedy it within 10 days of its occurrence; or
- xi) there is total loss of the Equipment, or the insurers are treating at claim on a total loss basis, this will constitute a repudiation of the Agreement, and we may terminate the Agreement without effecting the duties and liabilities you had with us at the date of termination.

13. EFFECT OF TERMINATION

- a) If this Agreement is brought to an end under clause 10 or clause 12 above, you must immediately pay us;

- i) all arrears of Payments and any other sums due to us at the date this Agreement is brought to an end; and
 - ii) such additional finance charges as may be due from the date upon which the last Payment fell due prior to termination until the date of termination; and
 - iii) an amount equal to the Balance of the Total Cash Price (as set out in the Agreement for Hire) outstanding at the date of termination; less
 - iv) the proceeds of the sales of any Equipment we are able to sell (excluding VAT), after deduction of any expenses incurred by us in recovering or disposing of the Equipment or otherwise. If we recover the Equipment but do not sell it, we will credit you with an amount which we, in our absolute discretion, estimate to be the resale value (excluding VAT), after deduction of any expenses we have incurred.
- b) We may combine any accounts held by us or any Associated Company (as defined by the Companies Act 2006) in your name and apply in discharge of any amount payable by us to you on any account the amount of your liability to us or any Associated Company on any account whatsoever.
- c) Clauses 4b-e (Payment), 6 (Exclusions), 13 (Effect of Termination), 8(a)(i), (v), (vii), (viii), (ix), (x) and (xiii) (Your Obligations), 14 (Notice) and 15 (Jurisdiction and Governing Law) shall survive termination of this Agreement.

14. NOTICE

Notices served under this Agreement shall be sufficiently served if sent by post to the usual or last known place of business of the addressee and proof of dispatch shall be conclusive evidence of recovery. If there is more than one Renter a notice posted to one of the Renters s will be deemed to have been served on all of you.

15. JURISDICTION AND GOVERNING LAW

The Agreement 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.

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

16. GENERAL

- a) Each right and remedy under this Agreement is without prejudice to any other right or remedy whether under the Agreement or otherwise.
- b) If any provision or part-provision of the Agreement 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 Agreement. If any provision of the Agreement is deemed deleted under this Clause 16(b) 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.
- c) Failure or delay on our behalf in enforcing or partial enforcing the provisions of the Agreement or any waiver by us of any breach of, or any default under, any provisions of the Agreement by you shall not be construed or deemed to be waiver of any of our rights or any subsequent breach or default under the terms of this Agreement.
- d) Neither the Renter or the Owner to this Agreement intend that any terms of the Agreement shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party of this Agreement.
- e) Nothing in this Agreement is intended to, or shall be deemed to constitute a partnership or joint venture of any kind between us and will not constitute either of us as agent for the other for any purposes. You shall not have the authority to act as our agent or bind us in any way to another party.

SCHEDULE ONE –WARRANTY in respect of Equipment only once purchased (Rent to Own).

THE RENTER’S ATTENTION IS DRAWN TO CLAUSE 6 ABOVE (EXCLUSIONS)

FOR THE AVOIDANCE OF DOUBT NO WARRANTY OR REPRESENTATION IS MADE IN RESPECT OF THE MEASUREMENTS OBTAINED FROM THE EQUIPMENT WHETHER AS A RESULT OF THE PROVISION OF MEASUREMENT SERVICE OR OTHERWISE NOR IS ANY WARRANTY GIVEN IN RESPECT OF THE EQUIPMENTS FITNESS FOR THE PURPOSES FOR WHICH IT IS RENTED.

Unless expressly agreed otherwise, the following warranty will apply to the Equipment being rented:

**Terms and conditions of Product warranty
For Rent to Own equipment**

The Buyer’s attention is drawn to clause 15 regarding limitation of liability

1. Polytec Limited. (hereafter referred as “Polytec”) warrants its “rent to own” equipment, to be free of defects in material or workmanship for a period of 6

months unless otherwise agreed in writing in advance from the earlier of the date the Buyer exercises their option to purchase in accordance with the rental agreement terms and conditions or the equipment first being placed into service by the Buyer after exercising their option to purchase, whether such equipment is sold, rented or leased; provided that the Buyer or the end-user sends Polytec written notice of the defect within sixty (60) days of its discovery and establishes to the Polytec's satisfaction that:

- i. the equipment has been maintained and operated within the limits of rated and normal usage, and that there have been no alterations to it; and
 - ii. the defect did not result in any manner from the intentional or negligent action or inaction by Buyer or the end-user or any of their respective agents or employees or any person using it.
2. If requested by Polytec, the Buyer must return the defective equipment to Polytec's manufacturing facility, or other location designated by Polytec, for inspection, and if the Buyer cannot establish that conditions (1) (i) and (1) (ii) above have been met, then this warranty shall not cover the alleged defect.
3. Polytec's obligation and liability under this warranty is expressly limited to, at Polytec's sole option, repairing or replacing, with new or remanufactured parts or components, any part, which appears to Polytec upon inspection to have been defective in material or workmanship.
4. Such parts shall be provided at no cost to the Buyer. If requested by Polytec, components or parts for which a warranty claim is made shall be returned to Polytec at a location designated by Polytec. All components and parts replaced under this limited used product warranty become the property of Polytec.
5. This warranty shall be null and void if parts (including wear parts) other than genuine Polytec parts are used in the equipment by the Buyer.
6. Accessories, assemblies and components included in the Polytec equipment, which are not manufactured by Polytec or a Polytec group company, are subject to the warranty of their respective manufacturers.
7. Normal maintenance, adjustments, or maintenance/wear parts are not covered by this warranty and are the sole maintenance responsibility of the Buyer. The Buyer may, at its option, enter into an agreement for Polytec to provide Maintenance and Calibration services, which are provided through and governed by a separate agreement.
8. Polytec makes no other warranty, express or implied, and makes no warranty of merchantability or fitness for any particular purpose.
9. Polytec's obligation under this warranty shall not include:-

- (1) duty, taxes, environmental fees, including without limitation, disposal or handling of tires, batteries, petrochemical items, or any other charges whatsoever; or
 - (2) any liability for direct, indirect, incidental, or consequential damages; or
 - (3) improper maintenance, improper use, abuse, improper storage, operation beyond rated capacity, operation after discovery of defective or worn parts, accident, sabotage or alteration; and/or
 - (4) repair of the equipment by persons not authorised by Polytec shall render this warranty null and void.
10. Polytec reserves the right to inspect the installation of the equipment and review maintenance procedures to determine if the failure was due to improper maintenance, improper use, abuse, improper storage, operation beyond rated capacity, operation after discovery of defective or worn parts, or alteration or repair of the equipment by persons not authorised by Polytec.

11. **PART WARRANTY:**

Polytec warrants the parts ordered from the Polytec's parts department to be free of defect in material or workmanship for either (1) a period of 12 months after date of shipment from the factory or (2) the balance of the remaining rent to own equipment warranty, whichever occurs first.

With respect to parts ordered from the Polytec's parts department for equipment that is no longer covered under this limited product warranty due to lapse of time, Polytec warrants such parts to be free of defect in material or workmanship for a period of 12 months after date of shipment from the factory.

12. **NO TRANSFERABILITY OF WARRANTY:**

This warranty is limited to the original purchaser and is not assignable or otherwise transferable without the written agreement of Polytec.

13. **ITEMS NOT COVERED BY POLYTEC WARRANTY**

The following items are NOT covered under the Polytec Warranty (the following list is not exhaustive):

- (1) Items sold by any individual, corporation, partnership or any other organisation or legal entity that is not an authorised Polytec distributor;
- (2) Components which are not manufactured by Polytec are not covered by Polytec's warranty. Such components are covered only by the warranty that is provided by the manufacturer of such components;

- (3) Replacement of assemblies: Polytec has the option to repair or replace any defective part or assembly. It is Polytec's policy to refuse claims for the replacement of a complete assembly that is field repairable by the replacement or repair of defective part(s) within the assembly;
 - (4) Normal Operational Maintenance Services and Wear Parts: Maintenance services, wear parts and consumables are excluded from warranty claims;
 - (5) Transportation cost and/ or damage: Any damage caused by carrier handling is a transportation claim and should be filed immediately with the respective carrier;
 - (6) Deterioration: Repairs, work required or parts exposed as the result of age, storage, weathering, lack of use, demonstration use, or use for transportation of corrosive chemicals;
 - (7) Secondary Failures: if the equipment is used or operated after it has been noted that a failure has occurred, Polytec will not be responsible under the warranty for resultant damage to other parts due to that continued operation;
 - (8) Workmanship of Others: Polytec does not accept responsibility for improper installation or labour costs or costs of any kind from personnel other than authorised Polytec personnel;
 - (9) Polytec neither assumes nor authorises any other person to assume for Polytec any other liability in connection with the sale of Polytec's equipment; and
 - (10) This warranty shall not apply to any of Polytec's equipment or any part thereof which has been subject to misuse, alteration, abuse, negligence, accident, acts of God or sabotage. No action by any party shall operate to extend or revive this limited warranty without the prior written consent of Polytec. In the event that any provision of this warranty is held unenforceable for any reason, the remaining provisions shall remain in full force and effect.
14. Nothing in this Warranty limits any liability which cannot legally be limited, including liability for:
- (1) Death or personal injury caused by negligence;
 - (2) Fraud or fraudulent misrepresentation; and
 - (3) Breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) to the extent it is applicable to pre-used/ex demonstration equipment.
15. Subject to Clause 14 (Liabilities which cannot legally be limited) above, Polytec's total liability to the Buyer for all loss or damage shall not exceed the total cost of the individual machine affected by a defect.
16. Subject to clause 14 (Liabilities which cannot legally be limited), this clause 16 sets out the types of loss that are wholly excluded:
- (1) loss of profits;
 - (2) loss of sales or business;
 - (3) loss of agreements or contracts;

- (4) loss of anticipated savings;
 - (5) loss of use or corruption of software, data or information;
 - (6) loss of or damage to goodwill; and
 - (7) indirect or consequential loss.
17. **Force majeure.** Neither party shall be in breach of nor liable for delay in performing, or failure to perform, any of its obligations under this Warranty if such delay or failure result from events, circumstances or causes beyond its reasonable control.
18. **Assignment and other dealings.**
- (1) Polytec may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under this Warranty.
 - (2) The Buyer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this Warranty without the prior written consent of the Polytec.
19. **Entire agreement.**
- (1) This Warranty constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
 - (2) Each party acknowledges that in entering into this Warranty it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Warranty. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Warranty.
 - (3) Nothing in this clause shall limit or exclude any liability for fraud.
20. **Variation.** Except as set out in these Conditions, no variation of this Warranty shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
21. **Waiver.** A waiver of any right or remedy under this Warranty or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under this Warranty or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Warranty or by law shall prevent or restrict the further exercise of that or any other right or remedy.
22. **Severance.** If any provision or part-provision of this Warranty 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 this agreement. If any

provision or part-provision of this Contract deleted under this clause 22 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.

23. Notices.

(1) Any notice given to a party under or in connection with this Warranty shall be in writing and shall be 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).

(2) 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;

(3) This clause 23 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

24. Third party rights.

(1) Unless it expressly states otherwise, this Warranty does not give rise to any rights under the (Rights of Third Parties) Act 1999 to enforce any term of this Warranty.

(2) The rights of the parties to rescind or vary this Warranty are not subject to the consent of any other person.

25. Governing law. This Warranty, 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.

26. Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Warranty or its subject matter or formation.