

Terms and conditions of Product warranty

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

1. Polytec Limited. (hereafter referred as "Polytec") warrants its new equipment, to be free of defects in material or workmanship for a period of 48 months from the earlier of the date the equipment is delivered in accordance with Polytec's terms and conditions or the equipment first being placed into service, 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 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 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 new 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).
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.