

## **Terms & Conditions for Polytec Rentals and Measurement Services**

The following terms and conditions apply to all rentals of equipment and measurement services rendered by Polytec, Inc. (POLYTEC). No provisions of any purchase orders submitted by or additional or different terms proposed by Customer and no waiver, alteration or modification of any of the provisions below shall be effective or binding upon POLYTEC, unless specially assented to in writing and signed by an officer of POLYTEC.

### **WARRANTY:**

With respect to rental and measurement service, POLYTEC warrants that rental equipment shipped is in good operating condition. If equipment is not received in good operating condition and the customer is not at fault for the condition of the equipment, POLYTEC shall (at its option) either repair equipment or supply replacement equipment subject to availability from POLYTEC inventory. Defects or discrepancies in or like objections to equipment must be reported to POLYTEC within 24 hours after Customer receives the equipment. Failing this, it will be conclusively presumed that the equipment ordered was received in good condition and is accepted.

Upon notice from Customer during the course of rental and upon return of equipment by Customer, POLYTEC will, at its option, repair or recalibrate malfunctioning equipment.

The remedies provide herein are Customer's sole and exclusive remedies. In no event shall POLYTEC be liable for direct, indirect, special, incidental or consequential damage (including loss of profits) whether based on contract or any other legal theory.

EXCEPT AS SPECIFICALLY SET FORTH IN AN AGREEMENT BETWEEN POLYTEC AND CUSTOMER, POLYTEC MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY POLYTEC SERVICES, RENTALS, RELATED PRODUCTS, EQUIPMENT, SOFTWARE OR DOCUMENTATION. POLYTEC SPECIFICALLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NONINFRINGEMENT OF THIRD PARTY RIGHTS.

### **SHIPMENT/DELIVERY**

All quoted prices are F.O.B. POLYTEC. All shipping costs, including cost of insurance are payable by Customer. Equipment will not be sent nor returned by U.S Mail. Shipments of any products are subject to availability from POLYTEC inventory. POLYTEC will make a reasonable effort to meet quoted delivery times. POLYTEC will attempt to ship in accordance with Customer's shipping instructions. In the absence of specific instructions, or if Customer's instructions are deemed unsuitable, POLYTEC reserves the right to ship by the most appropriate method, prepay and add. All risk of loss and damage shall pass to Customer at the F.O.B. shipping point. POLYTEC shall not be liable for delays in performance hereunder due to causes beyond its control including, but not limited to acts of nature, acts of government, labor disputes, delays in transportation and delays in delivery or non-delivery by POLYTEC's suppliers.

### **LIABILITY**

POLYTEC shall not be responsible for loss or damage to Customer's business or property or for injury or death to persons. The Customer shall indemnify POLYTEC and hold it harmless for claims for any of the foregoing, including associated legal fees and expenses.

POLYTEC assumes no liability whatsoever for proposed resolutions, fixes or service provided.

### **DEFAULT**

Should Customer default in its obligations, Customer agrees to pay POLYTEC for all costs and expenses incurred by POLYTEC in recovering the equipment or monies due and enforcing its rights. POLYTEC shall be entitled to recover its legal fees and expenses whether or not formal legal action is instituted.

### **NOTIFICATIONS**

Any required notices shall be given in writing at the address of POLYTEC or Customer as shown on the front of this contract or to such other address as either party may substitute by written notice to the other.

### **ASSIGNMENT**

Neither POLYTEC nor Customer may assign or transfer any rights, duties, or obligations herein without the prior written consent of the other, and any purported attempt to do so shall be null and void.

### **WAIVER**

Should POLYTEC choose not to exercise any of its rights that shall not constitute or be deemed a waiver or forfeiture of such rights.

### **GOVERNMENTAL JURISDICTION**

POLYTEC shall be notified in writing of any binding U.S. governmental procurement regulations that will affect this contract. This agreement shall be governed by the laws of the State of California.

#### ERRORS

Stenographic, typographic and clerical errors in this agreement are subject to correction and Customer hereby agrees to re-execute any document that requires correction or signature.

#### RENTAL RATES

Rates are based on daily, weekly and monthly time periods. Rentals continuing beyond the initial time period requested are billed at the daily rate, until that exceeds the weekly rate. Rental charges will commence the next business day after POLYTEC ships the equipment to the Customer. Rentals shipped for Saturday delivery will commence on that day. **Rental charges cease on the day equipment is received at the designated POLYTEC facility.** There are no credits or rebates for an early return.

Rentals require a purchase order stating the total rental time and total price, subject to credit approval at time of shipment. A credit application will be required for all new accounts.

#### RENTAL PERIODS

The minimum rental period for rentals or measurement services done at a Polytec facility is one day.

For rentals of all systems, it is required that the customer / user is either knowledgeable in use of the equipment or has at least one day of training on that instrument plus application support service.

Rentals can be extended provided the instrument has not been committed to another party prior to rental termination.

#### MEASUREMENT SERVICE RATES

Rates are based on a daily basis. A day is defined as an 8 hour working period. Time exceeding 8 hours per day will be charged at 150% of the regular rate in 1 hour increments. Work on weekends and public holidays will be charged at 200% of the regular rate in 1 hour increments.

Time required is estimated by the complexity and volume of the work the customer is requesting and shall always be an approximation. POLYTEC does not guarantee that the measurement can be completed in the estimated time. Additional time for measurement services by a POLYTEC engineer can be ordered in half day increments.

#### EQUIPMENT USAGE

Customer shall not make any alternations, 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. Customer may not permit the equipment to be used by any other party or at a different location without the express written consent of POLYTEC.

#### PAYMENT TERMS

All rental and measurement service payments are NET invoice.

Rentals will be billed at the time of shipping.

For the rent-to-own option or extended rentals, a net invoice payment covering the first and last month is due at the beginning of the rental.

Late payments will be charged an interest rate of 0.8% per month. If payment is delayed over 15 days, the credit towards a future purchase will be renounced.

All applicable taxes will be added to the invoice and are payable by Customer.

#### OWNERSHIP

Rental equipment remains the property of POLYTEC, until purchase, if any, is completed. Customer shall not remove, deface, or obscure ownership labels.

#### DAMAGE TO EQUIPMENT

Customers returning equipment with damage or abuse from rent will be notified immediately and be given 48 hours to inspect the damages. Upon inspection or time expiration, customers will be invoiced for the cost to repair damages accordingly.

#### OTHERS

For measurements performed at a Polytec facility, available necessary non-Polytec test equipment such as shakers, amplifiers, etc. will be included in the rental charges. Special fixtures and other supplies will be charged separately.