

POLYTEC STANDARD TERMS AND CONDITIONS - LSV

1. GENERAL

All Quotations, Products and Services provided by Polytec Inc. ("POLYTEC") are furnished only on the Terms and Conditions stated herein. All orders for POLYTEC's Products, if set forth on any forms apart from an unqualified acceptance of POLYTEC's Quotation form, are subject to written acceptance at POLYTEC's sales offices or its head office in Irvine, California. POLYTEC reserves the right to reject any purchase orders. Any Quotations furnished by POLYTEC shall expire 60 days following the date set forth on the specific Quotation form, and may be revoked, amended or otherwise revised by POLYTEC by written notice prior to acceptance by POLYTEC.

2. PRICES

All prices published by POLYTEC are subject to change without notice. Quoted prices are applicable only to North American sales; international sales are governed by POLYTEC's current international published price lists. All prices and charges specified herein are based on U.S. dollars, FOB shipping and are effective for: (a) the time period set forth in POLYTEC's written quotation; or (b) 60 days from the date of the quotation, whichever is the shorter time period. Unless otherwise provided in writing all prices are cash prices. Any special instructions requested by the customer including but, not limited to government inspection, special testing, special marking or labeling are subject to price adjustment, which must be specified in Buyer's purchase order. Transportation shall be by common carrier, at Buyer's risk and expense, with the transportation, insurance, and related charges added to the quoted price. Should the delivery date be postponed by Buyer, POLYTEC shall have the right to adjust the price of the undelivered goods to POLYTEC's price at the actual delivery date..

3. TAXES

Any sales, use, excise, or manufacturer's tax or fee which may be imposed upon the sale or use of the equipment or any property tax levied after readiness to ship or any excise tax, license or similar fee required under this transaction shall be in addition to the quoted prices and paid by Buyer. If Buyer is exempt from any taxes Buyer shall furnish to POLYTEC an appropriate tax exemption certificate in a form acceptable to the taxing authority. POLYTEC does not report, pay or collect any tax, license or fee which may be imposed on the Buyer unless such charge is separately stated on the face of the invoice for such Products.

4. CONDITIONS OF SALE

The signed purchase order and POLYTEC's Standard Terms and Conditions constitute a binding agreement between the parties. Acceptance by Buyer may be made either by written acceptance or by receipt and acceptance by Buyer of delivery of any one or any part of the Products to be delivered.

5. PAYMENT

(a) Payment terms are net thirty (30) days from date of invoice. A service charge of 1.5% per month, not to exceed the maximum rate allowed by law, shall apply to any portion of Buyer's outstanding balance which is not paid when due.

(b) Polytec accepts credit card payments up to a maximum order amount of \$5,000.

(c) Payment on export orders shall be made by irrevocable confirmed letter of credit from a US bank payable in U.S. dollars against POLYTEC's invoice and standard shipping documents. Such letter of credit shall be in amount equal to the full purchase price of the goods plus all other fees, taxes, and other charges and shall be established in a US-bank acceptable to POLYTEC. End user statement and/or BIS711 is required for exports.

(d) All sales above \$100,000 require a down payment of 50% of the sales price within ten (10) days of order placement.

6. DELIVERY, RISK OF LOSS, AND SHIPMENT

(a) Delivery and performance dates specified herein or otherwise communicated to Buyer are approximate only and are based on conditions at the time that POLYTEC accepts Buyer's purchase order, and such delivery and performance dates represent POLYTEC's best estimate. POLYTEC shall not be liable for any loss, damages, or penalties or any other cost because of any delay in performance or failure to give notice of any delay due to unforeseen circumstances or to causes beyond its control. For delays resulting from any such causes, the time for performance shall be correspondingly extended.

(b) Performance of the contract by POLYTEC shall be complete upon delivery of the product to the common carrier FOB shipping, whereupon title and all risk of loss, damage or destruction to the goods shall pass to Buyer.

(c) In absence of specific instructions by Buyer, the carrier will be selected by POLYTEC. In no event shall POLYTEC be liable for any delay in delivery by the carrier, nor shall the carrier be deemed to be an agent of POLYTEC.

(d) POLYTEC reserves the right to make partial shipments and to submit invoices for partial shipments.

7. INSTALLATION AND ACCEPTANCE

(a) Installation shall be performed by the Buyer

(b) Buyer shall be responsible for having the building, equipment, and service ready to receive the Products on the delivery date by the common carrier to the Buyer. Buyer shall provide necessary labor and service to unload the Products from the transport vehicle.

(c) POLYTEC is available for onsite assistance, if requested by the BUYER, at a rate to be quoted based on project requirements, availability and capabilities.

(d) If acceptance terms are required, terms and pricing must be negotiated with initial order.

(e) Use of any Product by Buyer, its agents, employees, or licensees, for any purpose after the delivery thereof to Buyer, shall constitute acceptance of the Product by Buyer.

8. SECURITY INTEREST

POLYTEC hereby reserves a purchase money security interest in any Product delivered to the Buyer and the proceeds thereof, in the amount of the purchase price, freight, and all other costs and fees. These security interests will be discharged when the Products are paid for in full.

Buyer authorizes POLYTEC to file in any applicable jurisdiction financing statements executed only by POLYTEC, describing the Products sold herein as the collateral. Upon the request of POLYTEC, Buyer will execute Financing Statements and other instruments required to perfect POLYTEC's security interest and to pay the cost of filing or recording the same in all public offices, whenever POLYTEC deems filing or recording to be necessary or desirable. POLYTEC or its representatives may enter upon Buyer's premises at any reasonable time to inspect the Products until payment therefor has been made in full.

9. REMEDIES

Upon any default by Buyer of any obligation under this agreement, POLYTEC may declare all obligations due hereunder to be immediately due and payable, and POLYTEC may avail itself to any remedies provided by law, including all of the remedies of a secured party under the Uniform Commercial Code or other applicable law.

10. WARRANTY

POLYTEC LSV Laser Surface Velocimeter products are subject to a Two (2) Year LIMITED HARDWARE WARRANTY against defects in material and workmanship from the date of delivery, unless otherwise specified. The warranty period is specified in documentation supplied

with the product. During the Limited Warranty period, POLYTEC will at its option either repair or replace products which prove to be defective. The LIMITED HARDWARE WARRANTY of POLYTEC is incorporated herein the same as if fully here set forth. warranty service will be performed at Buyer's facility, if applicable, only upon POLYTEC's agreement and in that case, Buyer shall pay POLYTEC's round trip travel expenses. In all other cases of warranty repair or service, products must be returned to a service facility designated by POLYTEC. Buyer shall prepay shipping charges for products returned to POLYTEC for warranty service and POLYTEC will pay for ground shipment back to Buyer. THE POLYTEC LIMITED HARDWARE WARRANTY AS INCORPORATED HEREIN IS THE COMPLETE AND EXCLUSIVE LIMITED WARRANTY OF POLYTEC. NO OTHER WARRANTY IS EXPRESSED OR IMPLIED. POLYTEC SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY AND ALL OTHER WARRANTIES OF EVERY KIND AND NATURE.

11. EXCLUSIVE REMEDIES:

THE REMEDIES PROVIDED HEREIN ARE BUYERS' SOLE AND EXCLUSIVE REMEDIES. IN NO EVENT WILL POLYTEC BE LIABLE FOR ANY INDIRECT OR CONSEQUENTIAL DAMAGE ARISING OUT OF OR IN CONNECTION WITH THE PURCHASE, USE, OR PERFORMANCE OF THE PRODUCT.

12. NO RETURNS

In no case may Products be returned for credit without POLYTEC'S advance written consent and authorization which may be given or withheld in POLYTEC'S sole and exclusive discretion. If POLYTEC at its sole discretion accepts a return, a restocking charge of up to 100% of the purchase price will apply.

13. NO CANCELLATION

Once accepted by POLYTEC, purchase orders may not be cancelled.

14. OEM DELIVERY SCHEDULE CHANGES

Changes to the delivery schedule may not be made without POLYTEC's advance written consent.

15. INDEMNIFICATION

Buyer hereby agrees to indemnify and hold harmless POLYTEC and its affiliates, officers, directors, employees, attorneys, agents, representatives, successors, and assigns from and against any and all claims, demands, causes of action, losses, damages, costs, and expenses of every kind and nature (including attorneys' fees and court and litigation costs and fees) (hereinafter referred to in the aggregate as "Claims") that may arise or result from or be related to any product manufactured, designed, distributed, or delivered by POLYTEC to Buyer and according to Buyer's specifications, including but not limited to Claims for infringement or invasion of intellectual property rights, trade secrets, patent rights, trademarks, or copyright.

16. EXPORT LAWS. The Instrument of Sale and these Terms and Conditions relate to hardware, software and/or technical data ("Products") that may be subject to export controls under the laws and regulations of the United States. Products that are commercial or have dual-uses may be controlled under the United States Export Administration Regulations ("EAR"), (see <http://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear>). Products that are inherently military in nature may be controlled under the International Traffic in Arms Regulations ("ITAR"), (see https://www.pmdtc.state.gov/regulations_laws/itar.html). Buyer shall

at all times comply with the EAR and the ITAR, as well as any other applicable law or regulation governing the export, transfer, use or re-export of the Products. Buyer agrees that it will not export, directly or indirectly, Products to any country or foreign national for which the United States Department of Commerce, Department of State or any other agency of the United States, at the time of the export requires an export license, permit, authorization or other governmental approval from the applicable agency. Buyer also agrees that it will not conduct business activities without the authorization of the United States government with countries and political regimes restricted by the Office of Foreign Assets Control Country Sanctions Programs, (see <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>;) as well as those individuals and entities set forth on the Entity List, the Denied Persons List, the Unverified Persons List, the Specially Designated Nationals List, the AECA Debarred List and the Nonproliferation Sanctions list available at http://export.gov/ecr/eg_main_023148.asp. Buyer hereby acknowledges that Buyer is familiar with the export laws and regulations referenced in the above paragraphs and understands the foregoing provisions. Buyer's failure to comply in all respects with the requirements of these paragraphs and the export laws and regulations referenced herein shall constitute a material breach of the Instrument of Sale and these Terms and Conditions entitling POLYTEC to immediately suspend or terminate the same.

17. COMPLIANCE WITH THE FOREIGN CORRUPT PRACTICES ACT:

Buyer agrees to comply in all respects with the U.S. Foreign Corrupt Practices Act of 1977 ("FCPA"), as amended, which makes it unlawful for any U.S. company or any officer, director, employee, agent or stockholder thereof acting on behalf of such U.S. company to directly or indirectly offer to pay any bribe, gift or thing of value to any foreign official, candidate for foreign office, foreign political party or party official to influence any act or decision of such persons or entities in their official capacity. Additional information concerning the FCPA can be found at the following web address: <http://www.justice.gov/criminal/fraud/fcpa/statutes/regulations.html>. Buyer hereby acknowledges that Buyer is familiar with the FCPA and understands its provisions. If requested by POLYTEC, Buyer will from time to time execute Certificates of Compliance with the FCPA. Buyer's failure to comply in all respects with the requirements of this Section and the provisions of the FCPA shall constitute a material breach of the Instrument of Sale and these Terms and Conditions entitling POLYTEC to immediately suspend or terminate the same; provided, however, that for purposes of the foregoing, POLYTEC's "good faith" belief that Buyer has failed to comply in all respects with the requirements of this Section and the provisions of the FCPA shall be sufficient cause for POLYTEC to suspend or terminate the Instrument of Sale and these Terms and Conditions.

18. FORCE MAJEURE

If POLYTEC suffers a delay in performance due to any cause beyond POLYTEC's reasonable control, the time for POLYTEC's performance shall be extended a period of time equal to the period of delay and its consequences. POLYTEC will give Buyer written notice within a reasonable time after POLYTEC becomes aware of such delay.

19. CHANGE OF PART NUMBERS

POLYTEC reserves the right at any time and from time to time to change the part numbers of its products.

20. MISCELLANEOUS

(a) Any drawings, data, designs, software programs or other technical information supplied by POLYTEC to Buyer in connection with the sale shall remain POLYTEC's property and be held in confidence by Buyer. Such information shall not be reproduced nor disclosed to others without POLYTEC's prior written consent.

(b) Buyer shall be responsible for obtaining all permits and for meeting all other requirements of any kind whatsoever relating to state and local codes, regulations and ordinances.

(c) All contracts for the sale of Products by POLYTEC shall be interpreted under and governed by law of the State of California, United States of America, without regard to conflicts of law principles. The exclusive jurisdiction and venue for any litigation concerning this agreement or POLYTEC's performance hereof is the state or federal courts in Orange County, California.

(d) The purchase order of Buyer (but not any terms and conditions of Buyer) and POLYTEC's Terms and Conditions as set forth herein shall constitute the entire Agreement between Buyer and POLYTEC with respect to the Products ordered by Buyer from POLYTEC. POLYTEC shall not be bound by any terms in the Buyer's order which are inconsistent with the terms and conditions herein set forth. The Terms and Conditions herein set forth shall supersede and displace any other agreement between POLYTEC and Buyer in connection with the Products and services subject hereto. These Terms and Conditions cannot be modified, supplemented, or rescinded except by in a writing duly signed by the authorized officers of both parties hereto. If any part of the Terms and Conditions stated herein is ever held to be void or unenforceable by a final order or final judgment of a court of competent jurisdiction, such part will be treated as severable and the remainder of the Terms and Conditions stated herein shall continue in full force and effect.

(e) If any lawsuit, litigation, or action at law or in equity is ever brought to interpret or enforce any of the provisions of this agreement, then, after trial and after the entry of a final judgment in said action, the prevailing party therein as defined in Section 1032 of the California Code of Civil Procedure shall be entitled to recover, in addition to any and all other relief awarded therein, reasonable attorney fees and the costs of litigation as costs, the amount of which shall be fixed by the court as provided in Section 1033(a)(10)(A) of the California Code of Civil Procedure.

(f) Typographical or clerical errors herein are subject to correction.

END OF TERMS AND CONDITIONS