

# TERMS AND CONDITIONS OF SALE

## 1. General provisions

**1.1** These general terms and conditions of sale (the "**Terms**") shall apply to all sales or toll manufacturing operations entered into between Polytechs and the Client except where special conditions apply, notably in a sale agreement or formal toll manufacturing agreement between Polytechs and the Client. No provisions contrary to the general terms of purchase, letters, acknowledge of receipts, or any other Client documents can be apply to Polytechs without its prior written consent.

**1.2** Polytechs shall have the right to amend at any time these Terms, the new Terms applying therefore to all new orders.

## 2. Orders

**2.1** Unless a sale agreement or a formal toll manufacturing agreement has been entered into between Polytechs and the Client, ordering implies full acceptance of these Terms by the Client.

**2.2** No order shall be deemed as final and binding upon Polytechs unless and until it has been expressly accepted or confirmed by Polytechs.

**2.3** No amendment or cancellation of a Client's order shall be deemed valid without Polytechs prior and express written consent.

## 3. Delivery

**3.1** Unless otherwise provided in the special conditions or any other document agreed between the parties, the delivery and the transfer of risks shall operate in accordance with the Incoterm CIP "carriage and insurance paid to the named place of destination". Nevertheless, Polytechs shall have the right, in case of significant increase of carriage costs between the date of acceptance of the order and the delivery date, to include such an increase in the Client's invoice.

**3.2** The delivery notices specified to the Client are indicative and without guarantee and in the case these notices would be passed, Polytechs could not be held liable in any manner whatsoever, neither could this fact launch any withhold payment, claim compensation, or cancellation of the outstanding orders. Polytechs shall have the right to complete partial deliveries.

However, in the case of a delay exceeding thirty (30) days, and should this delay not be attributable to a force majeure event or to the Client's negligence, the non-delivered Client on due date may request the cancellation of the sale thirty (30) days after a formal notice has been delivered and remained unsuccessful. However, the specified notice is automatically suspended by any event beyond Polytechs' control and constituting a force majeure event.

**3.3** In case of material damage, the Client shall write, on the delivery receipt, its express reservation clearly indicating the nature of the damage and shall confirm these reservations by registered letter with acknowledgment of receipt sent to Polytechs and, where applicable, to the carrier, within three (3) days from the delivery.

## 4. Price

**4.1** The prices charged are those of the Polytechs Tariff into force on the date of confirmation of the order by Polytechs, or those agreed between the Client and Polytechs to take into account the specifics of the order.

**4.2** Prices are always mentioned taxes excluded.

## 5. Payment

**5.1** In accordance with article L. 441-6 of the French commercial code, the invoice shall be paid within thirty (30) days from the date of invoice, by cheque, bank wire or by accepted draft with exemption of protest (*traite acceptée avec dispense de protêt*) providing for a date of maturity not exceeding thirty (30) days from the date of the invoice.

**5.2** In accordance with article L. 441-3 of the French commercial code, Polytechs shall issue, upon completion of the sale, an invoice in duplicate. One copy shall be sent the same day to the Client and the other will be kept by Polytechs. The invoice shall mention all the mandatory items referred to in article L. 441-3 of the French commercial code.

As regards the invoicing, Polytechs may use the options provided by article 289 VII of the French general tax code in relation to the e-invoicing.

**5.3** Any unpaid amount on the due date as set out on the invoice (should this due date be identical or different from that resulting from the Terms) shall launch, automatically and without prior formal notice, late payment penalties representing a minimum amount of three times the legal interest rate applicable at the maturity date.

**5.4** Pursuant to article D. 441-5 of the French Commercial Code, in case of late payment, the Client shall automatically owe to Polytechs, in addition to the late payment penalties, a lump sum for recovery costs of 40 Euros. In the case the recovery costs would exceed this amount, Polytechs shall claim with justification for additional compensation.

**5.5** In case of failure to pay the price on the due date, Polytechs shall decide to suspend or cancel the sale, thirty (30) days after a formal notice has been delivered and remained unsuccessful, without prejudice of any other claim and damages that Polytechs may request. Partial payments that would be potentially completed before the delivery are received as advance payments on the total amount of the invoice. Such payments do not bear any interest and will be kept by Polytechs as damages in case of cancellation of the sale.

**5.6** Polytechs will not accept and will not grant any discount of payment whatsoever and whatever would be the reason to the benefit of the Client.

**5.7** Any deterioration of the Client's credit shall justify the requirement of guarantees or cash payment before processing the order.

## 6. Retention of title

**6.1** Polytechs will retain full ownership of the Products sold until full payment of the price by the Client. In case of failure to pay the price on the due date, Polytechs shall claim the sold Products and cancel the sale as specified in Article 5.

**6.2** These provisions do not prevent the transfer of the risks of the sold Products on the delivery date.

## 7. Warranties - Liability

**7.1** Without prejudice of the measures to be taken vis-à-vis the carrier, any claim from the Client, related to an apparent defect or to the non compliance of the Products delivered as regards the order, shall be justified and disclosed in writing and sent to Polytechs by registered letter with acknowledgment of receipt within thirty (30) days from the delivery date of the Products

**7.2** The Client shall keep in good condition the Products claimed to be defective, so that these Products can be submitted, as soon as possible after receipt by Polytechs of the registered letter with acknowledgment of receipt referred to in article 7.1, to analysis made by each party at its own expense, in accordance with the applicable requirements of the specifications or, in the absence of specifications, in accordance with the accurate practice applicable to the profession. The results of these analyses will then be examined contradictorily by the technical direction of each of the parties.

**7.3** In case of non compliance or defect attributable to Polytechs, the latter shall, at its own option, either replace the Products, or reprocess the Products, or grant to the Client a compensation within the limit, unless otherwise provided at the front of these Terms, (i) of the amount of the relevant order in the case of a sale of Products and (ii) of the costs of the toll manufacturing services charged by Polytechs to the Client in the case of toll manufactured Products. The round-trip carriage costs shall be borne by the Client, and the carriage is at the Client's own risks.

**7.4** No intervention of Polytechs under this warranty shall extend the duration of this warranty. This warranty excludes any other warranty.

**7.5** This warranty does not apply if the non-compliance or defective Products originates from the non-compliance or defectiveness of the raw materials provided by the Client, or originates from external events, accidents, Products wear, movement of said Products by the Client, their improper use in accordance with instructions provided by Polytechs, and their modification by any other person than Polytechs.

**7.6** Polytechs shall never be held liable, toward the Client or any third party, for any direct or indirect damage attributable, in any manner whatsoever, to the Products.

**7.7** Polytechs does not warranty, either expressly or implicitly, that the manufacturing, sale, use, import, export and/or the possession of finished products manufactured from the Products manufactured by Polytechs do not infringe patents, third party exclusive rights or property rights. The Client shall exploit the Products sold by Polytechs at its own risks, shall defend itself at its own expenses and earnings against any infringement action brought by a third party against the Client in relation to the manufacturing, use, import, export an/or possession of such finished products, and shall waive any recourse against Polytechs due to such action.

## **8. Force majeure**

**8.1** Neither Polytechs nor the Client shall be held liable for any failure or delay in the performance of all or part of their obligations, if such failure or delay is due to a force majeure event (fire, flood, epidemic, war, riot, total or partial strike, lock-out, difficulty in raw materials or energy supply, manufacturing incident, carriage disruptions, or any other event beyond the reasonable control of Polytechs that could not reasonably have been foreseen upon the conclusion of the contract and where the impacts cannot be avoided through appropriate measures, which would make impossible or ruinous the performance of Polytechs' obligation to manufacture or deliver the Products).

**8.2** The performance by Polytechs and by the Client of their obligations under these Terms shall be delayed until the end of the force majeure event. Should the force majeure event continue beyond a two (2) month period, the order shall be cancelled without compensation for any of the parties, upon written request of either party.

This cancellation shall effect on the date of the first presentation of the registered letter with acknowledgment of receipt requesting the cancellation of the contract of sale.

## **9. Specific cases**

### **9.1 In case of toll manufacturing work**

Polytechs undertakes to store the residual raw materials and the Products sold, within the perimeter of its factory or in external warehouses, without charges for the Client, for a period of sixty (60) days from the manufacturing of the Products. Beyond this period:

- (i) storage costs will be charged to the Client at a tax excluded rate per pallet and per period of thirty (30) days, increased, in case of outdoor storage, by a sum (input and output costs) exclusive of tax per pallet and per sixty (60) day period. The totality of the fees for any started week is due.
- (ii) Polytechs shall require the Client to lift all the raw materials left in Polytechs premises to the extent that no other order has been scheduled and agreed between the parties in the short term, and except otherwise provided in the specific conditions of sale

In case of toll manufacturing work, the Client shall deliver to Polytechs evidence that it holds an insurance covering in full the risks and damages that may be caused to the raw materials provided by the Client to Polytechs.

Raw materials shall be delivered at the latest ten (10) days before the beginning of the production. In the case the delivery occurs more than ten (10) days before the beginning of the production, expenses of storage will be charged at the same conditions as those referred to in point (i) above.

### **9.2 In case of "false toll manufacturing work" (*faux travail à façon*)**

Polytechs undertakes to provide with the raw materials in accordance with the specific conditions of sale entered into with the Client ; in the case the orders would have been bases on forecast to determine the quantity of necessary raw materials instead of final figures, the Client shall pay the totality of the raw materials so ordered, and the related administrative and storage costs.

### **9.3 In case of testing**

In case of testing order whatsoever, the Client shall deliver to Polytechs the all security data and specification form before any production can be started. Failing this, Polytechs shall reject to begin the ordered production.

## **10. Absences of licence**

The sale of the Products shall not imply, in any manner, any transfer of licence of know-how, patent, rights of industrial or intellectual property related to the manufacturing of the Products.

## **11. Governing law and jurisdiction**

**11.1** These Terms shall be governed by French law.

**11.2** Any dispute relating to the interpretation or performance of these Terms shall be under the exclusive jurisdiction of the Commercial Court of Rouen, even in case of recourse in guarantee or in case of several defendants.