1. Definitions

In these general purchase terms and conditions the following definitions shall mean:

1.1. Affiliates
All affliating companies of Purchaser, meaning all parties that have the power to control Purchaser or any other parties that can be controlled by Purchaser.

1.2. Agreement
The agreement between Purchaser and Supplier concerning the purchase of Products, including the Purchase Order as issued by Purchaser and accepted by Supplier, and all the parties have the option of being written in an integral and inseparable part thereof.

1.3. Products
All means the goods, service, design, subject and/or equipment and all pertaining documents to be supplied by Supplier to Purchaser.

1.4. Purchase Order
Supplier shall mean the order or purchase order as issued by Purchaser and accepted by Supplier, or by third parties or third parties, such as but not limited to affiliates of Purchaser.

1.5. Purchaser
Purchaser shall mean Polyscope Polymers B.V., including her affiliates, issuing a Purchase Order, the ‘Supplier’, ‘Buyer’ or ‘Company’, which may be used in the agreements, shall have the same meaning as ‘Purchaser’.

1.6. Sub Supplier
Shall mean any natural person, corporation or company identified in the Purchase Order as the supplier of the Products, including the affiliates of Purchaser or company. Every reference to ‘Sub Vendor’ or ‘Subcontractor’, which may be used in the Purchase Order, shall have the same meaning as ‘Sub Supplier’.

1.7. Supplier
Shall mean the natural person, corporation or company identified in the Purchase Order as the supplier of the Products, including the affiliates of Purchaser or company. Every reference to ‘Vendor’, ‘Seller’ or ‘Suppliers’, which may be used in the Purchase Order, shall have the same meaning as ‘Supplier’.

1.8. Terms
These general purchase terms and conditions of Purchaser.

2. Applicability

2.1. These Terms apply to all agreements between Purchaser and Supplier.

2.2. These general purchase terms and conditions of Purchaser shall form an integral part of the Agreement. All general purchase or sale conditions of Supplier or any designation whatsoever which previously agreed upon in the relationship between the Parties are deemed to hereby be rejected and in addition thereto have been cancelled and superseded by the Terms.

3. Purchase Orders

3.1. To purchase Products, Purchaser shall issue a Purchase Order.

3.2. Supplier is deemed to have accepted the Purchase Order:

a. Upon signing and returning the Purchase Order Information form within 10 working days after receipt of the Purchase Order;

b. At the moment Supplier has commenced with the execution or performance of the Purchase Order or in any way has to have accepted the obligations pursuant to the Purchase Order.

3.3. After acceptance of the Purchase Order by Supplier as described in article 3.2, the agreement between parties is concluded.

3.4. All further terms and conditions mentioned or referred to in reference to ‘Polyscope’, ‘Purchaser’ or ‘Supplier’ quotation is well as in any subsequent correspondence are hereby expressly rejected.

3.5. The Supplier shall supply to the Purchaser, the Products in accordance with the Agreement and the specifications, cares and foresight of a diligent supplier of such products.

3.6. Items or parts of Products not specified in the Purchase Order Information form for the proper, safe and efficient operation, construction or maintenance of the Products and/or for the fulfillment of Specified Supplier’s guarantees are deemed to be included in the Purchase Order and the prices as referred to therein and shall be supplied and/or executed by Supplier at no extra cost to Purchaser unless otherwise specified in the Purchase Order and explicitly agreed upon in writing by the Purchaser.

3.7. Supplier may issue forecasts of requirements that pass the Supplier. Such forecasts are not binding estimates only and are only intended to inform the Supplier in scheduling its production and delivery of Products. All forecasts are exclusively based on the volumes actually purchased under the Purchase Order.

3.8. Upon expiry or termination of any Agreement between the parties (in whole or in part), for any reason, the Supplier shall at its own risk.

3.8.1. Provide reasonable transfer assistance to Supplier for goods that are at least comparable to the Products, to minimize any disruption and ensure continuity of the Purchaser’s business.

3.8.2. Close other work product or Projects as purchased by the Purchaser so as to be in final or not in final form. Such work products or Projects shall be returned to Purchaser by Supplier in a manner convenient for the Purchaser.

4. Deviations of the Purchase Order

4.1. Any confirmation of a Purchase Order by Supplier, containing any modifications or deviations from the Purchase Order or these Terms, will be explicitly agreed upon in writing by Purchaser.

4.2. Supplier shall not deviate from the specifications as specified in the Purchase Order, nor deviate from any other sense from the Purchase Order or Agreement, unless he shall obtain a prior written consent thereof from Purchaser.

4.3. Approval by Purchaser of drawings, samples or other proposals shall not imply any approval of deviations of the Purchase Order unless explicit prior written consent thereof is given by Purchaser.

4.4. Where the designation ‘or equivalent’ is used in any Agreement, material proposed as equivalent by Supplier shall require prior approval in writing by Purchaser.

5. Postponements

5.1. Purchaser is entitled to request the Supplier to postpone the performance of the Agreement, which request shall be justified.

5.2. Said postponement notice as issued by Purchaser shall be deemed to have been accepted by Supplier.

5.2.1. Immediately discontinue performance of Supplier’s obligations on the date specified in the notice.

5.2.2. place Purchaser with respect to the postponed part of the Agreement.

5.2.3. promptly make every effort to obtain postponement of the terms satisfactory to Purchaser with all the time and resources available to the Supplier, to the extent they relate to performance of the postponed part of the Agreement.

5.2.4. continue to perform non-postponed obligations.

5.2.5. generally act in such a manner as to minimize costs associated with the postponement and at all times in the interest of Purchaser.

5.3. Upon receipt of a notice to that effect from Supplier, Purchaser, in addition in addition thereto have been cancelled and superseded by the Terms.

5.4. Within fifteen (15) working days from the date the Supplier has executed the postponed part of the Agreement, Supplier shall submit a documented estimate of the costs of the postponement to allow Purchaser to claim performance by Supplier, however in either case without prejudice to Purchaser’s further rights and remedies.

5.5. Purchaser is entitled to request the Supplier to forthwith remove the postponed part of the Agreement, which request shall be met as soon as possible by Supplier. Supplier shall provide Purchaser with all further information and allow Purchaser to accept or Reject the postponed part of the Agreement.

6. Assignment and subcontracting

6.1. Supplier shall not assign the Agreement with Purchaser or any part thereof without the prior written consent of Purchaser. Purchaser is, at its own discretion, to assign the Agreement with Purchaser or any part thereof to third parties, such as but not limited to Sub Suppliers.

6.2. The performance of the Agreement or the performance of any part thereof by a Sub Supplier may not be contracted to any Sub Supplier without Purchaser’s prior written consent.

6.3. Supplier is entitled to approve a Sub Supplier, in which request the Purchaser has the right to require Supplier to forthwith remove the postponed part of the Agreement, which request shall be met as soon as possible by Supplier. Supplier shall provide Purchaser with all further information and allow Purchaser to accept or Reject the postponed part of the Agreement.

6.4. In case the Purchaser chooses to approve the contracting of a Sub Supplier by the Supplier, said approval shall in any case be under the condition upon Purchaser having received a written statement signed by the Sub Supplier, explicitly confirming that the Sub Supplier will comply with all the stipulations of the concerning Agreement.

6.5. Subcontractor shall not relieve Supplier from any responsibility or liability under the Agreement. All obligations and liabilities of Supplier shall be deemed to have been delivered by Supplier.

6.6. Supplier is, at all times, responsible and liable for the acts and performance of the Sub Supplier. Supplier at all times to inform the Supplier of the Purchaser of all further information or data that may be necessary to allow accuracy and timely performance by Sub Supplier.

7. Deliveries

7.1. All deliveries by Supplier or Sub Supplier shall be delivered Duty Paid as specified in the Incoterms 2010 thereof or any part thereof in the Agreement as agreed upon in writing by the Purchaser.

7.2. Without prejudice to any rights of the Purchaser the Supplier shall immediately give written notice to the Purchaser if it becomes aware or anticipates that the Products shall not comply with the Agreement.

7.3. Products shall be delivered in adequate packaging and in the required form and shall be supplied for transportation, handling and storage of the Products. Packaging costs are included in the prices agreed upon in the Agreement. Purchaser will not pay any caution money or cost of wear and tear or issue any securities to Supplier.

7.4. The Supplier shall comply with all written or electronically provided policies, recommendations, instructions and requirements as required by Purchaser from time to time. The Supplier shall at all times comply with Purchaser’s quality assurance requirements in respect of quality for quality assurance with all Products.

8. Delivery time

8.1. The date of delivery of the Products as specified in the Agreement and are considered a strict deadline for Supplier. Supplier will be considered in default when the delivery is exceeded, in which case Purchaser shall have the right to cancel the Agreement in whole or in part or to claim performance of the Agreement, whether in whole or in part, or in either case without prejudice to Purchaser’s further rights and remedies.

8.2. Notwithstanding Supplier’s obligation to deliver the Products on the date and place specified, Supplier shall immediately notify Purchaser of any delay of the delivery is foreseen. Supplier shall in such case immediately submit its proposal indicating the measures Supplier shall take at its own account to remedy the delay in order to maintain the delivery as stated in the Agreement or the delivery as stated by Supplier, whether in final or not in final form. If Supplier fails to take such measures or should Purchaser not accept the measures as proposed by Supplier, Purchaser has the right to require Supplier’s performance, on Supplier’s account, all measures Purchaser deems necessary.

8.3. Purchaser shall, at any time, be entitled enter the premises of Supplier and supplied Sub Suppliers to examine and control the progress of the delivery of the Products. Supplier shall not interfere with such inspections. Supplier may request Sub Supplier to submit unaided copies of contracts with Sub Suppliers for the purpose of progress accounting. Supplier shall allow such inspections to be met as soon as possible by Supplier. Supplier shall provide Purchaser with all further information and allow Purchaser to ascertain the timely delivery of the Products.

8.4. In the event Purchaser determines that as a result of Supplier’s and/or Sub Supplier’s performance a substantial delay is foreseen in delivery of the Products, Purchaser is entitled to notify Supplier that Supplier will not be required to perform the Agreement or the delivery as stated by Supplier, whether in final or not in final form. If Supplier claims the Products from Supplier by removing the Products or any part thereof manufactured by Supplier’s or Supplier’s Sub Supplier’s premises and to complete the manufacture of the manufacture completed by any means necessary, for Supplier’s account and without prejudice to any other rights or remedies Purchaser may have under the Agreement.

9. Ownership and risk

9.1. Purchaser shall become the owner of the Products as soon as they have been manufactured by Supplier or Sub Supplier in accordance with the Agreement, are at the Purchaser’s premises and are ready for inspection or shipment. Supplier shall identify Purchaser’s property and keep them, in a responsible manner, separate from any other materials or goods. Purchaser’s property and keep them, in a responsible manner, separate from any other materials or goods as goods on the Purchaser’s premises.

9.2. Risk and responsibility attaching to the Products shall pass the Supplier upon shipment by or on behalf of Purchaser in accordance with these Terms.

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Last update: August 24, 2017
10. Inspection and testing

10.1. Supplier shall carefully and continuously control the materials and the manufacturing operations during the production stage in order to assure that the Products will comply with the requirements of the Agreement.

10.2. Purchaser has the right to require Supplier to perform or to have performed any supplementary tests, verifications and/or checkings.

10.3. All costs regarding checks, verifications and tests as mentioned above - including but not limited to mechanical, chemical, hydrostatic, X-ray, ultrasonic and laboratory tests - as well as travel costs, accommodation costs, personnel and all the costs of the related reports and certificates, are born by Supplier.

10.4. At Purchaser’s first request Supplier shall forthwith make all test results and related documents available to Purchaser. Should Supplier have obtained any relevant certifications for the Product, these certificates are provided upon first request of Purchaser as well as a certain certificate if not been obtained by Supplier, Supplier will inform Purchaser of any renewal or any cancellation of that certificate as soon as the certificate becomes available.

10.5. Purchaser shall further have the right by itself or by an appointed third party, to inspect and test the Products and to ascertain the proportion of the Purchaser’s agreement at any time during or after the fabrication, manufacturing, construction or assembly of all work relating to the Agreement, either on Supplier’s or Sub Supplier premises, even if the Products are located or the work is being executed. Perform of all checks and inspections of any such inspection or check does not release Supplier of any liability the Agreement and does not deprive the Products from the quality requirements of the Purchase Order or accepted by Purchaser.

10.6. Supplier is responsible, on its own account, to Purchaser or its representative the measurement equipment required and to perform the inspection with sufficient accuracy.

11. Guarantees and indemnification

11.1. Supplier warrants that it possesses the skill, experience, knowledge, personnel and facilities necessary to fulfil its obligations under the Agreement. Supplier further warrants that it possesses and performs its activities in cooperation with all necessary licences, intellectual property rights, permits and approvals as required to perform its obligations under the Agreement.

11.2. Supplier guarantees that the Products will be free from defects and will in all respects meet the requirements specified in the Agreement or in the Purchase Order. Supplier further guarantees that the Products will be and remain to be suitable for the actual purpose for which Purchaser desires to use the Products, as far as this purpose or use should be known to Supplier.

11.3. Purchaser hereby warrants that it and the Products shall comply with all relevant laws and regulations.

11.4. Upon notification by Purchaser, Supplier shall for its own account repair the Product to Purchaser’s satisfaction repair all existing and occurring defects of the Products. After the repair, Supplier shall notify Purchaser of the defective Products and replace them by non- defective ones in case that any damage caused by the defective Products, immediately upon receipt of said notification or at a time to be agreed upon by the parties.

11.5. If Supplier fails to comply with its obligations set forth above, or that Supplier has failed to fulfill any of its obligations set forth above, Purchaser is, upon notification in writing to Supplier, entitled to carry out the repair and other work or to have it carried out by a third party for Supplier’s account, notwithstanding Supplier’s obligations under the guarantee, nor to Purchaser’s entitlement to damages. Purchaser is in such case entitled to set off the costs of repair and other work against any outstanding payments without notification thereof to Supplier.

11.6. Supplier shall indemnify and hold harmless Purchaser from any claims by third parties directly or indirectly resulting from the execution of the Agreement.

12. Prices and payments

12.1. Supplier shall execute the Purchase Order and Agreement against the price or prices mentioned herein.

12.2. The price for the Products shall be as set out in the Agreement, which price includes all shipping, packing and insurance costs but excludes VAT, sales tax or equivalent amount which may be paid of the price and agreed upon in prior writing by Purchaser.

12.3. Invoices shall comply with all instructions and requirements of the purchase order or accepted by Purchaser.

12.4. Unless otherwise agreed upon in writing, inspection of the Products may also take place at the premises to be designated by Purchaser. Such inspection may be in addition to or at a time to be agreed upon in writing by Purchaser in case of rejection of Products, no matter the reasons of rejection.

12.5. If requested, Supplier shall repair rejected Products to the extent this is possible and necessary and leave them in free use to Purchaser until such time as Purchaser has received replacement Products in replacement which meet the relevant requirements as set out in the Agreement, upon which the rejected Products can be returned. In this case Purchaser retains all rights and remedies arising from rejection of the Products and/or non-performance of the Agreement by Supplier.

12.6. Purchaser is not obliged to test and/or inspect Products or to accept Products on the premises to be designated by Purchaser. Such inspection may be in addition to or at a time to be agreed upon in writing by Supplier in case of rejection of Products, no matter the reasons of rejection.

12.7. Payment of Products by Purchaser does not release Supplier of any liability in the execution of the Agreement after obtaining the prior written consent of Purchaser.

13. Liability

13.1. Supplier ensures that all information received from Purchaser that is known or should reasonably be known to be confidential, is kept secret during the term of the Agreement. Supplier hereby obliges to only use this information for the purpose for which it has been provided. Information shall be regarded as confidential in case one of the parties explicitly states it as such.

13.2. During the term of the Agreement and for two years following the termination thereof, irrespective of the reason of termination, Supplier shall only engage or otherwise employ, directly or indirectly, members of the staff of Purchaser or Supplier shall only use, reproduce, exploit, modify, alter or provide third parties, including possible Sub Suppliers, with any information relative to the Products, as intended by Purchaser.

13.3. The Purchaser shall not permit the use, reproduction, exploitation, modification, alteration or provision of the related property rights, in the event that:

13.3.1. Purchaser, its contractual obligations, including any non-disclosure obligation and any agreements to Supplier, being required, for a moratorium on payments or for any other reason.

13.3.2. Supplier shall only engage or otherwise employ, directly or indirectly, members of the staff of Purchaser or Supplier shall only use, reproduce, exploit, modify, alter or provide third parties, including possible Sub Suppliers, with any information relative to the Products, as intended by Purchaser.

14. Force majeure

14.1. The Parties shall in any case not be allowed to invoke the force majeure for the purpose the Agreement. This includes failure to adhere the duties of the Parties to perform the obligations of the Agreement.

14.2. If Supplier fails to comply with its obligations in any case beyond Supplier’s control, including but not limited to consequential losses, defects in connection with inspection, location of defects, repair, replacement and relaxing of the Products as well as the full costs of obtaining satisfactory results in and out of Court, including any amounts of litigation costs not covered by the Court.

14.3. The Supplier is an independent contractor engaged by the Purchaser to supply the Products. Neither the Agreement shall make the Supplier the legal representative or agent of the Purchaser and the Supplier shall have the right to or authority to assume to act on behalf of the Purchaser.