

polytec

## Website Terms of Use ("Terms")

This website ([www.polytec.co.nz](http://www.polytec.co.nz)) (**Website**) is operated by Porta Limited (NZBN 9429052693182) (**Porta**). Throughout the Website and these Terms, references to "we", "us" and "our" refer to Porta and references to "you" and "your" are to the end user of this Website.

These Terms affect your legal rights and obligations. Please read these Terms carefully before accessing or using this Website.

By accessing this Website and/or purchasing any of our products and/or services, you agree to be bound by:

- (a) these Terms;
- (b) our Terms and Conditions of Sale <https://www.polytec.co.nz/terms-conditions> and;
- (c) our [Privacy Policy](#),

(the **Terms of Use**).

If you do not agree to be bound by the Terms of Use, then you must not access the Website, or purchase our products and/or services.

You acknowledge and agree that:

- (a) you have had reasonable opportunity to access and read the Terms of Use;
- (b) you have been made aware of how to access and review the most current version of the Terms of Use;
- (c) We reserve the right to update, change or replace any part of these Terms or our Privacy Policy by posting updates and/or changes to our Website;
- (d) It is your responsibility to check this Website periodically for changes to our Privacy Policy and these Terms; and
- (e) Your continued use of or access to the Website following the posting of any changes constitutes acceptance of those changes.

The headings used in these Terms are for convenience and will not limit or otherwise affect these Terms.

## 1. GENERAL CONDITIONS

- 1.1. By agreeing to these Terms, you represent that you are at least twenty (20) years old and you have given us your consent to allow any of your minor dependents to use this Website.
- 1.2. You may not use the Website for any illegal or unauthorised purpose nor may you, in the use of the Website, violate any laws in your jurisdiction (including but not limited to copyright laws).
- 1.3. A breach or violation of any of these Terms will result (at our discretion) in the immediate termination of your right to use this Website.
- 1.4. We reserve the right to refuse access to this Website to anyone, for any reason and at any time.

## 2. ACCURACY, COMPLETENESS AND TIMELINESS OF INFORMATION

- 2.1. The material on this Website is provided for general information purposes only and should not be relied upon or used as the sole basis for making decisions without first consulting us in relation to the products and/or services you wish to purchase.
- 2.2. This Website may contain certain historical information. Historical information, necessarily, is not current and is provided for your reference only.
- 2.3. We reserve the right to modify the contents of this Website at any time, but we have no obligation to update any information on our Website. You agree that it is your responsibility to monitor changes to our Website.

## 3. INTELLECTUAL PROPERTY

- 3.1. You acknowledge that between you and us, we are the sole owner or licensee of all intellectual property rights in this Website (including its features, content and functionality) and any Social Media Platforms.
- 3.2. No right, title or interest in or to this Website or any content, features or functionality on this Website is transferred to you. Any use of this Website or its content not expressly permitted by these Terms constitutes a breach of these Terms, and may also violate copyright, trademark and other laws.

## 4. MODIFICATIONS TO THE SERVICE AND PRICES

- 4.1. To the extent permitted by law:
  - (a) We reserve the right at any time to modify or discontinue the Website (or any part or content thereof) without notice; and
  - (b) We shall not be liable to you or any third-party for any modification, suspension or discontinuance of the Website.

## 5. SERVICES

- 5.1. We reserve the right, but are not obliged, to limit access to this Website to any person, geographic region or jurisdiction. We may exercise this right on a case-by-case basis, in our absolute discretion.
- 5.2. Any offer for any product and/or service made on this Website is void where the laws of that country prohibit it.
- 5.3. Subject to written product-specific warranties and New Zealand consumer laws (including the Consumer Guarantees Act 1993 (**CGA**) that provides consumers with certain guarantees and warranties in relation to goods and/or services purchased for personal, domestic or household use), we do not warrant that the quality of any products, services, information or other material purchased or obtained by you will meet your expectations or that any errors in the service will be corrected.

## 6. OPTIONAL WEBSITE PLUG-IN TOOLS

- 6.1. We may provide you with access to third party website plug-in tools which we may neither monitor nor have any control over nor input into.
- 6.2. You acknowledge and agree that we provide access to such third party website plug-in tools on an "as is", "as available" and "with all faults" basis, without any warranties, representations or conditions of any kind and without any endorsement. We shall have no liability whatsoever arising from or relating to your use of optional third-party website plug-in tools.

- 6.3. Any use by you of optional website plug-in tools offered through this Website is entirely at your own risk and discretion and you should ensure that you are familiar with and approve of the terms on which website plug-in tools are provided by the relevant third-party provider(s).
- 6.4. We may also, in the future, offer new services and/or features through the Website (including the release of new website plug-in tools and resources). Such new features and/or services shall also be subject to these Terms.

## 7. THIRD-PARTY LINKS

- 7.1. Certain content, products and services available via our Website may include materials from third-parties.
- 7.2. Third-party links on this Website may direct you to third-party websites that are not affiliated with us. We are not responsible for examining or evaluating the content or accuracy and we do not warrant and will not have any liability or responsibility for any third-party materials, websites or other materials, products or services.
- 7.3. We are not liable for any harm or damages related to the purchase or use of goods, services, resources, content or any other transactions made in connection with any third-party websites.
- 7.4. Please review carefully the third-party's policies and practices and make sure you understand them before you engage in any transaction. Complaints, claims, concerns or questions regarding third-party products should be directed to the third-party.

## 8. USER CONTENT

- 8.1. If, at our request, you send certain specific submissions or without a request from us you send creative ideas, content, suggestions, proposals, plans or other materials, whether online, by email, by postal mail, or on any social media page (such as Facebook, Instagram, TikTok, Twitter, Snapchat or Youtube) owned by, affiliated with or administered by us (**Social Media Platform**) or otherwise (collectively, "Content"), you agree to grant us an unlimited, non-exclusive, worldwide, royalty-free, perpetual right and license to edit, reproduce, publish, modify and otherwise use your Content in connection with any advertising, publicity, promotional and marketing activities related to Porta.
- 8.2. Subject to clause 8.1, we are and shall be under no obligation:
  - (a) to maintain any Content in confidence;
  - (b) to give consideration or pay compensation for any Content; or
  - (c) to respond to any Content.
- 8.3. We may, but have no obligation to, monitor, edit or remove Content that we determine in our sole discretion are unlawful, offensive, threatening, defamatory, obscene or otherwise objectionable or violates any party's intellectual property or these Terms.
- 8.4. You agree that your Content will not violate any right of any third-party, including copyright, trademark, privacy, personality or other personal or proprietary right. You further agree that your Content will not contain defamatory or otherwise unlawful, abusive or obscene material, or contain any computer virus or other malware that could in any way affect the operation of the Website or any related website.
- 8.5. You may not use a false email address, pretend to be someone other than yourself or otherwise mislead us or third parties as to the origin of any Content.
- 8.6. You are solely responsible for any Content you make and their accuracy. We take no responsibility and assume no liability for any Content posted by you or any third-party.

- 8.7. Use of your content by us does not imply any endorsement or affiliation with you.
- 8.8. You retain ownership, copyright and intellectual property rights that you have in relation to your Content. We will endeavour to credit you when your Content is published or reproduced where practicable.
- 8.9. You release, discharge and agree to hold us harmless from any liability related to the use of your Content.
- 8.10. These Terms, together with our Privacy Policy, contain all the terms agreed between us relating to use of your Content.

## 9. PERSONAL INFORMATION

- 9.1. Your submission of 'personal information' (as defined in the Privacy Act 2020) through this Website is governed by our Privacy Policy. You can view our Privacy Policy [here](#).

## 10. SECURITY

- 10.1. You must ensure that all logons, identifiers, passwords or other access methods (**Passwords**) given to you by Porta and used by you in connection with your access to, and operation of the 'Trade Customer Portal' (**Portal**), are kept secure and confidential, and that unauthorised persons do not have access to terminals at which the Portal may be accessible. You will be deemed to have authorised any transaction in which a Password is, or has been, used to gain access to the Portal and/or our products and/or services.
- 10.2. You must notify Porta immediately:
  - (a) on becoming aware that the security of any Password used in the operation of this Website has, or may have become, compromised or that unauthorised transactions have, or may have, been initiated via this Website;
  - (b) if you, or anyone associated with you, ceases (for any reason) to be authorised by Porta to use this Website or the Portal; and
  - (c) if an error, unauthorised transaction or discrepancy occurs in connection with your use of this Website or the Portal.

## 11. ERRORS, INACCURACIES AND OMISSIONS

- 11.1. This Website may be interfered with, may contain computer viruses or other defects and may not be successfully replicated on other systems. We give no warranties in relation to these matters.
- 11.2. If you have any doubts about the authenticity of any communication from this Website purportedly sent by us, you must contact us immediately.
- 11.3. There may be information on this Website that contains typographical errors, inaccuracies or omissions that may relate to product descriptions, pricing, promotions, offers and availability.
- 11.4. All drawings and images are artistic impressions and are for illustrative purposes only. Due to the nature of the products we manufacture, any actual products you receive may not exactly reflect the true size, shape, specifications, or colour of the products depicted on this Website however, where our products are purchased for personal, domestic or household use and are not purchased "in trade" the CGA provides certain statutory guarantees.
- 11.5. We reserve the right to change prices, inclusions, areas, and dimensions without notice or obligation, correct any errors, inaccuracies or omissions and to cancel the Website if any

information in the service or on any related website is inaccurate at any time without prior notice.

- 11.6. We undertake no obligation to update, amend or clarify information in the service or on any related website including, without limitation, pricing information except as required by law. No specified update or refresh date applied in the service or on any related website, should be taken to indicate that all information in the service or on any related website has been modified or updated.

## 12. PROHIBITED USES

- 12.1. In addition to other prohibitions in these Terms, you are prohibited from using this Website or its content:

- (a) to solicit others to perform or participate in any unlawful acts;
- (b) to violate any international or domestic regulations, rules, laws or local ordinances;
- (c) to infringe upon or violate our intellectual property rights or the intellectual property rights of others;
- (d) to harass, abuse, insult, harm, defame, slander, disparage, intimidate, or discriminate based on gender, sexual orientation, religion, ethnicity, race, age, national origin or disability;
- (e) to submit false or misleading information;
- (f) to upload or transmit worms, viruses or any other type of malicious code that will or may be used in any way that will affect the functionality or operation of the Website or of any related website, other websites, or the internet;
- (g) to collect or track the personal information of others;
- (h) to spam, phish, pharm, pretext, spider, crawl or scrape; or
- (i) to alter, modify, change, interfere with or circumvent the security features of the Website or any related website, other websites, or the internet. We reserve the right to terminate your use of the Website or any related website for violating any of the prohibited uses.

- 12.2. You must not create an application which falsely implies that it is associated with the Website or us.

- 12.3. You agree not to reproduce, duplicate, copy, sell, resell or exploit any portion of this Website, use this Website, or access to this Website or any contact on this Website through which this Website is provided, without the express, written permission by us.

- 12.4. You agree not to reverse engineer, reverse assemble, decompile, or otherwise attempt to discover source code or other arithmetical formulae or processes in respect of the software underlying the infrastructure and processes associated with this Website.

## 13. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY

- 13.1. Your use of this Website is at your sole risk, and this Website is provided on an "as available" basis. We provide no warranty that:

- (a) this Website and your access to this Website will be uninterrupted, timely, secure, or error-free; or
- (b) any errors on this Website will be corrected.

- 13.2. You agree that from time to time we may remove the Website for indefinite periods of time or cancel the Website at any time, without notice to you.

- 13.3. You expressly agree that your use of or inability to use, the Website is at your sole risk.
- 13.4. The Website and all products and services delivered to you through the Website are (except as expressly stated by us) provided “as is”, “as available” and “with all faults” basis, without any representation, warranties or conditions of any kind, either express or implied, including all implied warranties or conditions of merchantability, merchantable quality, fitness for a particular purpose, durability, title and non-infringement (to the extent that the exclusion of those representations, warranties or conditions is permitted by law).
- 13.5. To the maximum extent permitted by law, our directors, officers, employees, affiliates, agents, contractors, interns, suppliers, subcontractors, service providers or licensors will not be liable for any injury, loss, claim or any direct, indirect, incidental, punitive, special or consequential damages of any kind including, without limitation, lost profits, lost revenue, lost savings, loss of data, replacement costs, or any similar damages, whether based in contract, tort (including negligence), strict liability or otherwise, arising from your use of any of the Website, or for any other claim related in any way to your use of the Website including, but not limited to, any errors or omissions in any content, or any loss or damage of any kind incurred as a result of the use of the Website or any content posted, transmitted, or otherwise made available via the Website, even if advised of their possibility.
- 13.6. You warrant that you have not relied on any representation made by us which has not been stated expressly in these Terms.
- 13.7. You acknowledge that the information contained on the Website does not and is not intended to constitute legal, financial or other advice, the information or content on the Website should not be relied upon and you agree that you will make your own inquiries and satisfy yourself as to the accuracy of any information or content contained on the Website.
- 13.8. You should engage your own legal, financial and accounting expertise prior to entering into any contract or relying upon any information or content contained within the Website.
- 13.9. We are not responsible for the actions, content, information or data of third parties and you release us, our directors, officers, employees and agents from any claims and damages, known and unknown, arising out of or in any way connected with any claim you have against any such third parties.
- 13.10. You acknowledge and agree that your relationship with us is not a confidential, fiduciary, or other type of special relationship and that your decision to submit any content does not place us in a position that is any different from the position held by members of the general public, including with regard to your content. None of your content will be subject to any obligation of confidence on our part and we will not be liable for any use of disclosure of any content you provide.
- 13.11. These exclusions do not affect any consumer rights which may not be excluded under the CGA unless the products and/or services are acquired by you “in trade” or as otherwise excluded under the CGA.

#### 14. INDEMNIFICATION

- 14.1. You agree to indemnify, defend and hold us and our parent, subsidiaries, affiliates, partners, officers, directors, agents, contractors, licensors, service providers, subcontractors, suppliers, interns and employees, harmless from any claim or demand, including reasonable legal fees, made by any third-party due to or arising out of your breach of these Terms or the documents they incorporate by reference, or your violation of any law or the rights of a third-party.

- 14.2. You will cooperate as fully required by us in the defence of any claim. We reserve the right to assume the exclusive defence and control of any matter subject to indemnification by you. You will not settle any claim without our prior, written consent.

#### 15. SEVERABILITY

- 15.1. If any provision of these Terms is determined to be unlawful, void or unenforceable, such provision shall be nonetheless enforceable to the fullest extent permitted by applicable law and the unenforceable portion shall be deemed to be severed from these Terms, such determination shall not affect the validity and enforceability of any other remaining provisions.

#### 16. GOVERNING LAW

- 16.1. These Terms and any separate agreements whereby we provide you with products and/or services shall be governed by and construed in accordance with the laws of New Zealand.

#### 17. CONTACT INFORMATION

- 17.1. Questions about these Terms should be sent to us at [privacyofficer@borgs.com.au](mailto:privacyofficer@borgs.com.au)