



Pilz Automation Safety, L.P.

North American Headquarters
7150 Commerce Boulevard., Canton, MI 48187
Tel: +1 (734) 354-0272 Fax: +1 (734) 354-3355

2010

The World Leader in Safe Automation

Terms and Conditions of Sale of Goods and/or Services

A. Agreement

1. This Agreement (hereinafter this "Agreement") is expressly made conditional on Buyer's assent to all of the terms and conditions hereof, and failure to object in writing to such terms and conditions within 10 days after the receipt hereof, or acceptance by Buyer of Seller's products or services, shall be deemed an assent to all of such terms and conditions notwithstanding (i) the inclusion of different or additional terms and conditions on the front or reverse side of any form of purchase order which Buyer may heretofore have sent to Seller, (ii) Seller's shipment of products to or performance of services for Buyer and/or (iii) Seller's acceptance of the purchase price for such products or services.
2. Any provisions in any purchase order, quotation, acknowledgement or other forms or contract documents applicable to sales of Seller's Products or performance of Seller's Services which are inconsistent, or in conflict, with any of the provisions of this Agreement will be deemed inapplicable to such sales and the provisions of this Agreement shall govern and control.
3. None of the terms, provisions and conditions of this Agreement and/or the agreement resulting from Buyer's failure to object to any of the terms and conditions of this Acknowledgement as aforesaid, or Buyer's acceptance of the products or services described or referred to on the front side hereof may be modified, altered or added to except by written instruments signed by a duly authorized representative of Seller at Seller's headquarters. Any agreed upon change in Buyer's order will be subject to an equitable adjustment in the purchase price and/or time for performance set forth herein.
4. This Agreement contains a final, complete and exclusive statement of the terms of the agreement between Buyer and Seller relative to the performance of services by Seller or sale of Seller's products, and there have been no verbal understandings or agreements relative thereto other than those herein stated. Any oral or written representation, warranty, course of dealing or trade usage not contained or referenced herein will not be binding on Seller.
5. Typographical, stenographical, clerical and other obvious errors contained in this Agreement are subject to correction without penalty to either party.
6. Buyer shall hold Seller harmless against any expense or loss resulting from infringement of patents or trademarks arising from compliance with Buyer's designs or specifications or instructions.
7. The performance of services or sale of products, or parts thereof, by Seller does not convey any license, by implication, estoppel, or otherwise, under patent claims covering combinations of said products or parts with other devices or elements.
8. Offers, pictures, drawings, plans, sketches, models, samples, etc. ("Seller's Property") remain the property of Seller and must be returned immediately to Seller, postage/delivery charges prepaid by Buyer, when no longer needed or upon the request of Seller. Buyer is liable for damage or loss to Seller's Property. Buyer shall use its best efforts to protect Seller's Property from damage. Buyer agrees to hold and retain all of Seller's Property in the strictest confidence and will not disclose, divulge or communicate any such confidential information to any person or third party.

B. Pricing; Payments; Financial Condition

1. Unless otherwise stated by the Seller, prices, terms of payment and pricing policies will be those set forth in the Seller's published price lists and pricing policies in effect at the time of shipment. The Seller's prices do not include shipment, shipping insurance or packaging.
2. Prices quoted in writing herein are valid for 30 days from the date of this Quotation.
3. Pro rata payments for goods produced by Seller shall become due as shipments are made. If shipments are delayed by the Buyer, payments shall become due on the date when the Seller is prepared to make shipment. If the work to be performed hereunder is delayed by the Buyer, payments shall be made based on the purchase price and the percentage of completion. Products held for the Buyer shall be at the risk and expense of the Buyer. Fees for educational services (seminars and training classes) shall be subject to the following: Seller shall invoice fees for educational services (including anticipated travel costs, if educational services are to take place at Buyer's facility) upon registration. For seminars and training classes that will be held at Seller's facility, Seller shall refund 100% of service fees if Buyer provides its cancellation notice at least thirty days prior to the seminar or class date, Seller shall refund 50% of service fees if Buyer provides its cancellation notice at least seven days prior to the seminar or class date, and no refund of service fees shall be given if Buyer fails to provide its cancellation notice at least seven days prior to the seminar or class date. For seminars and training classes that will be held at Buyer's facility, Seller shall refund 100% of service fees (less cost of airfare and other non-refundable travel costs) if Buyer provides its cancellation notice at least sixty days prior to the seminar or class date, Seller shall refund 50% of service fees (less cost of airfare and other non-refundable travel costs) if Buyer provides its cancellation notice at least thirty days prior to the seminar or class date, and no refund of service fees shall be given if Buyer fails to provide its cancellation notice at least thirty days prior to the seminar or class date.
4. If the financial condition of the Buyer at any time is such as to give the Seller, in its judgment, reasonable grounds for insecurity concerning the Buyer's ability to perform his obligations under this contract, the Seller may require full or partial payment in advance or may suspend any further deliveries or continuance of the work to be performed by the Seller until such payment has been received. Failure to furnish such payment within ten days of demand by the Seller shall constitute a repudiation of the contract and in such event the Seller shall be entitled to receive reimbursement for its cancellation charges. In the event of bankruptcy or insolvency of the Buyer or in the event any proceeding is brought by or against the Buyer under the bankruptcy or insolvency laws, the Seller shall be entitled to cancel any order outstanding at any time during the period allowed for filing claims against the estate and shall receive reimbursement for its cancellation charges.
5. The Seller's prices do not include sales, use, excise, or similar taxes. Consequently, in addition to the price specified herein, the amount of any present or future sales, use, excise, or other tax applicable to the sale or use of the products sold hereunder shall be paid by the Buyer, or in lieu thereof the Buyer shall provide the Seller with a tax-exemption certificate acceptable to the taxing authorities. Seller shall not in any event be liable or responsible for any taxes, assessments or other governmental charges which may be imposed upon, levied against or claimed to be due from Buyer and which are, or are asserted or claimed by the Buyer to be, attributable in any manner or to any extent to the failure, neglect or refusal, or to the claimed or alleged failure, neglect or refusal, of Seller to ship or deliver the subject matter of this Agreement at the time or times in the quantity or quantities and/or in the manner specified in this Agreement.
6. All invoices are due net 30 days of the day of invoice. Invoices shall be sent at the time of shipment.
7. The principal balance of any past due invoice shall bear interest at the rate of 18% per annum, until paid in full.

- Credit for or the re-use of durable packaging or dunnage shall be awarded only at Seller's discretion. Seller shall not be obligated to re-use or credit for the use of durable packaging that is in damaged condition or which shows evidence of excessive wear and tear.

C. Delivery; Risk of Loss

- Unless otherwise agreed in writing by the Seller, delivery of the products hereunder shall be made F.O.B. point of shipment, with transportation expenses paid by the Buyer. Risk of loss or damage and other incidents of ownership shall immediately pass to Buyer, but title to such products will be retained by Seller as security for Buyer's performance until payment in full is received. The Buyer agrees to do all acts necessary to perfect and maintain such security right and title in the Seller. It shall be Buyer's responsibility to file any claims for loss with the common carrier.
- Seller also reserves the right to ship products covered by this Agreement on common carriers selected from those carriers having specific authority to serve Seller.
- Unless otherwise agreed in writing by Seller scheduled or stipulated shipping dates are approximate.
- Seller shall not be responsible for the accuracy of shipping weights, if any, listed on the front side hereof or in any subsequent writing signed by Seller. Such weights are given only for the purpose of enabling Buyer to estimate transportation costs.
- Seller shall have the right to make partial shipments on any order.
- If the Buyer does not take the "ready to ship" announced product at the time Seller intends to ship such product, Seller shall have the right to store the product at the Buyer's cost and risk. Payment shall become immediately due and payable upon storage of such product. If Seller does not elect to store the product, Seller shall have the right to sell such product to another customer if Buyer does not choose to take the product at the time Seller intends to ship.

D. Force Majeure

Seller shall not be held liable or deemed in default if prevented from performing any of the obligations of this Agreement by reason of fire, flood, drought, acts of God, war, riot, strikes, lockouts, acts of civil or military authority, embargo, material shortages, or governmental orders which in any way interfere with the purchase or manufacture or flow of the necessary material or products required to manufacture or fabricate the products referred to on the front side hereof.

E. Limited Warranty; Disclaimer of Warranty

With respect to any goods tendered by Seller for sale to Buyer ("Products"), Seller makes the following express warranty, as set forth below, to the Buyer only. Seller neither assumes nor authorizes the Buyer or any other person, natural or corporate, to assume for Seller, by way of warranty, contract, or otherwise, any obligations or liabilities in connection with resale, by any person, including the Buyer, of any Products delivered by Seller pursuant to the order made in connection with this Agreement.

With regard to the Products which are the subject of this warranty, Seller shall not assume any warranty obligations or liabilities other than as expressly set forth herein, nor shall it permit any person or entity, including but not limited to the Buyer of such goods from Seller to grant any warranty or assume any warranty obligations or liabilities, whatsoever, on behalf of Seller.

At Seller's sole discretion, Seller will repair or replace any Product purchased under this Agreement found upon inspection by Seller to be inoperative solely due to a defect in material or workmanship, and received by Seller within twelve (12) months from the date of delivery FOB Seller's facility.

In the event that the Product is altered or repaired by the Buyer without prior written approval by Seller, all warranties are void.

With respect to any services performed by Seller in return for consideration paid by Buyer pursuant to this Agreement ("Services"), Seller warrants to Buyer that such Services shall reasonably conform to the highest professional standards in all material respects. If specifications or standards involved in the Services require interpretation by Seller, Seller agrees that such interpretation shall be made in a careful and diligent manner, utilizing Seller's extensive experience and subject matter expertise. At Seller's sole discretion, Seller will refund fees collected for performance of any Service pursuant to this Agreement where Seller agrees that such Service does not reasonably conform to the highest professional standards in all material respects. Seller makes no guarantee or warranty with respect to the Buyer's use of the Services or the consequences thereof or, where Seller's Services include training services, with respect to any acts or omissions by individuals who have participated in Seller's training services.

With respect to any Services which entail a review of Buyer's compliance with safety specifications, Seller's review, comments, recommendations, and conclusions shall be applicable only with respect to the particular equipment and those particular specifications noted in Seller's report. Seller makes no warranty as to the effectiveness of such specifications or the consequences that might result from the use of Buyer's equipment, whether or not such use occurs in a manner that complies with such specifications. Any conclusion by Seller with respect to specifications shall be limited to those specifications expressly noted in Seller's report, as in effect on the date of Seller's review, and subsequent revisions or amendments thereto or similar specifications recognized in other jurisdictions shall be disregarded for purposes of this Agreement. Where Seller offers recommendations or comments with respect to corrective measures or specifications that are the subject of Seller's review, Seller shall have no responsibility to Buyer or any third party with respect to consequences resulting from Buyer's implementation or failure to implement recommendations or comments provided by Seller.

- The **EXPRESS WARRANTY** contained herein is further limited as follows so that such obligations **WILL NOT**:
 - Impose on Seller any liability for any costs or expenses incurred by any other person concerning the repair or replacement of any such Product;
 - Extend to any Product that becomes inoperative:
 - Due to the failure of, or any defect in, any system, device, or any component part thereof using such Product, not attributable solely and exclusively to such Product, or
 - Because of system processing, design or installation;
 - Preclude, limit or restrict the right of Seller to make charges against the Buyer attendant to any in-Warranty return where Seller's inspection of the Product indicates that there is no defect in material or workmanship (such attendant charges are necessary since all returns are dismantled for final inspection resulting in dismantling and remanufacturing costs); or
 - Extend to any loss of, or damage to, any such Product during transportation of the same.

Seller reserves the right to make changes in the design of, and to make additions to and improvements in, its products or services without imposing any obligations upon Seller to make changes in the design of, or additions or improvements to previously manufactured Seller Products or previously performed Seller Services.

THE WARRANTIES SET FORTH HEREIN ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED, STATUTORY OR IMPLIED, ALL OF WHICH ARE HEREBY DISCLAIMED AND EXCLUDED BY SELLER, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE AND ALL OBLIGATIONS OR LIABILITIES ON THE PART OF SELLER FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE, REPAIR, OR PERFORMANCE OF THE PRODUCT. THE SOLE AND EXCLUSIVE REMEDIES FOR BREACH OF ANY AND ALL WARRANTIES AND THE SOLE REMEDIES FOR SELLER'S LIABILITY OF ANY KIND (INCLUDING LIABILITY FOR NEGLIGENCE) WITH RESPECT TO ANY PRODUCT OR SERVICE COVERED BY THIS WARRANTY SHALL BE LIMITED TO, AT SELLER'S SOLE DISCRETION, REPAIR OR REPLACEMENT OF SUCH PRODUCT OR SELLER'S REFUND OF FEES COLLECTED FOR SUCH SERVICE. IN NO EVENT SHALL SELLER'S LIABILITY OF ANY KIND INCLUDE ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL LOSSES OR DAMAGES, EVEN IF SELLER SHALL HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE.

2. Under any and all circumstances, Seller shall not be liable for indirect, incidental or consequential damages resulting from its breach of any of the terms of this Agreement, nor for special damages, even if Seller shall have been advised of the possibility of such potential loss or damage; nor shall Seller be liable for improper selection of any Product for a particular application.
3. The liability of the Seller (except as to title) arising out of the performance of such services or supplying of such products, or their use, whether on warranties, negligence, or otherwise, shall not in any case exceed the cost of correcting defects as stated in the warranty and upon expiration of the warranty period all such liability shall terminate and the foregoing shall constitute the sole remedy of the Buyer and the exclusive liability of the Seller.
4. Please direct all in- and out-of warranty repairs to Seller's Customer Service Department. Before returning any unit, contact us by fax (734-354-3355) to obtain a Return Authorization ("RMA") and shipping address. This RMA should then be marked on the outside of the return package.
 - a. Seller will only accept returns under guarantee if accompanied by documentation stating when the unit was purchased and the apparent cause of failure.
 - b. It is at the sole discretion of Seller to exchange, repair or refund payment in respect of all goods returned.
 - c. Seller will only accept the return of non-faulty goods under certain circumstances. In such cases Seller have the right to charge a handling fee where it is established that the reason for their return was not through any error on part of Seller.

F. Safety Precautions  **WARNING**

**SEVERE INJURY or DEATH WILL RESULT
IF SELLER'S PRODUCTS ARE MISAPPLIED, MISINSTALLED, or MISUSED.**

**READ installation manuals and
COMPLY with applicable regulations, codes, and standards regarding proper application, installation, and use of Seller's products.**

G. Conditions to Seller's Performance

1. Seller's obligation to provide services on Buyer's premises under this Agreement is expressly conditioned upon Buyer's provision of a suitable working environment, including but not limited to adequate lighting, temperature control, access to utilities, sanitation, customer-supplied equipment, and the personal safety and security of Seller's employees and contractors. Seller is entitled to discontinue performance at any time under this Agreement, without further liability to Buyer, if Seller in its sole discretion concludes that the work environment provided by Buyer is not suitable for Seller's provision of services. Buyer acknowledges that Seller's employees or contractors shall always work in numbers of two or greater for purposes of personal safety.

H. Miscellaneous

1. All rights granted to Seller hereunder shall be in addition to and not in lieu of Seller's rights arising by operation of law.
2. If any provision of this Agreement is held invalid, void or unenforceable, this shall not affect the validity of the remaining provisions.
3. THIS AGREEMENT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF MICHIGAN WITHOUT GIVING EFFECT TO PRINCIPLES OF CONFLICTS OF LAW THEREOF.
4. Notwithstanding any other provision of this Agreement, Seller reserves the right to enforce the terms and conditions of this Agreement against Buyer in any jurisdiction where Buyer: owns assets, is domiciled, is doing business, or where Seller may otherwise determine in Seller's sole discretion.
5. Any assignment of this Agreement or of any rights or obligations hereunder, by the Buyer or the Seller, without the written consent of the other party shall be void.
6. The waiver by Seller of any terms, provision, or condition hereof shall not be construed to be a waiver of any other term, condition or provision hereof, nor shall such waiver be deemed a waiver or subsequent breach of the same condition or provision. In the event Buyer shall default in its obligations under this Agreement, Buyer shall be liable for Seller's cost of collection, including reasonable attorneys' fees.
7. The parties agree that any dispute, controversy or claim arising out of this Agreement shall be settled by arbitration in the State of Michigan, by three arbitrators, one appointed by the Seller, one appointed by the Buyer and the third by the other two arbitrators, pursuant to the rules of the American Arbitration Association. The decision of the arbitrators shall be final and binding upon the parties. Costs of the arbitration shall be shared equally by the parties, unless the arbitrators determine that such costs shall be otherwise assessed. Any award, order, or judgment made pursuant to arbitration shall be deemed final and may be entered in any court having jurisdiction over the enforcement of the award, order, or judgment.