

# Sale and Delivery Conditions of PIV Drives GmbH for Commercial Business

## I. Scope, range and scale of delivery

1. All goods and services of PIV Drives GmbH as a supplier are subject to these conditions and any separate contractual agreements. Terms in offers, confirmations or other statements of the Client are void for us without our explicit rejection and despite any declarations of the Client that it shall accept external terms only by its consent, unless they are acknowledged in writing. If the Client does not wish to recognize some of the following conditions, it must clearly indicate this in writing. Additionally, deviating conditions of purchase of the Client do not automatically become part of the contract through acceptance of the order.
2. Offers are subject to change.
  - 2.1. The documents belonging to the quotation, such as illustrations, drawings, weights and measurements, are only approximate unless they are expressly designated as binding.
  - 2.2. For cost estimates, drawings and other documents, the Supplier reserves ownership and copyright; they must not be made accessible to third parties.
3. For the scale of delivery the written confirmation of the supplier is the benchmark. If there is a commercial letter of confirmation for the written order confirmation from the Supplier, then the Client can only reject this within two days. After this period, the contract is concluded with the content of the written order confirmation.

4. Additions, alterations and ancillary agreements require written confirmation of the Supplier.

Subject to technical changes.

## II. Pricing, packaging and shipping

1. Unless otherwise agreed, our prices are in Euros and are ex works, including loading, but not including packing and packaging.

The prices are subject to VAT at the statutory rate.

2. Packaging and shipping are at our discretion.

Packaging is charged at cost price.

3. The minimum order value is EUR 100.00.

## III. Delivery period

1. The delivery period begins with the dispatch of the order confirmation but not before provision of all documents, permits, approvals to be obtained by the Client and receipt of an agreed deposit.
2. The delivery deadline is met, if prior to its expiry the deliverable has left the factory or readiness for shipment has been notified.
3. The delivery period shall be extended appropriately in the context of labour disputes, in particular strikes and lockouts as well as unforeseen obstacles, which are proven to have had a considerable influence on the completion or delivery of the object.

This also applies if the circumstances arise with subcontractors.

The above circumstances are also not the responsibility of the Supplier if they occur during an already existing delay.

The beginning and end of such obstacles shall be notified in important cases by the Supplier to the Client as soon as possible.

4. If shipment is delayed at the request of the Client, then, beginning one month after notification of readiness for shipment, the storage costs incurred in storage at the Supplier, at least 0.5% of the invoice amount shall be charged to it for each month.
5. The Supplier shall, however, be entitled to dispose otherwise of the deliverable after the setting and expiry of a reasonable period and to supply the Client with an appropriately extended deadline.
6. The compliance with the delivery period presupposes the fulfilment of contractual obligations.
7. If the Supplier is in default and the Client incurs damages, then it is entitled to demand general reimbursement for delay damages.

The flat rate for each full week of delay is 0.5%, but not more than 5% of the value of that part of the total delivery that cannot be used or according to the contract due to the delay.

The Supplier retains the right to prove that the Client has sustained no damage or a considerably lower damage than the above lump sum.

If the Client grants the Supplier - taking into account the statutory exceptions - a reasonable deadline for performance after the due date, and the deadline is not met, the Client is entitled under the law to withdraw. It undertakes to declare at the Supplier's request within a reasonable period of time whether it is exercising its right of withdrawal.

## IV. Transfer of risk and acceptance

1. The risk shall pass at the latest on the loading of parts delivered to the Client, even if the Supplier has taken on other services, such as the shipping costs or delivery and installation.

At the request of the Client, the shipment shall be insured by the Supplier against theft, breakage, transport, fire and water damage at its own expense.

2. If the delivery is delayed due to circumstances for which the Client is responsible, the risk passes from the day the goods are ready for shipping to the Client; however, the Supplier is required, at the request and expense of the Client, to obtain the insurance requested by it.
3. Delivered items, even if they have minor faults, must be accepted by the Client without prejudice to the rights under Article VII.
4. Partial deliveries are permitted.

## V. Terms of payment

1. The payment, unless otherwise agreed, must be made free in cash at the office of the Supplier, specifically

- a) complete sets, accessories and spare parts:  
30 days after the invoice date
- b) orders over EUR 100,000.00:  
1/3 after receipt of order confirmation  
1/3 on notification of readiness for shipping  
1/3 30 days after date of invoice.

Deviations from a) -b) may be agreed in individual contracts.

2. Cheques and bills are only considered payment after they are definitively cashed. Discount and bill charges shall be borne by the Client.
3. L/C shall be accepted from a net order value of EUR 5,000.00.

For L/C of a lower-level all bank charges incurred at home and abroad shall be at the expense of the Client. Costs for letters of credit shall be charged in full to the Client.

4. The right to withhold payments or offset counterclaims is enjoyed by the Client only insofar as its counterclaims are undisputed or legally binding. In addition, compensation and retention of the Client is excluded.

## VI. Retention of title

1. The Supplier reserves the ownership of the deliverable until all claims of the Supplier against the Client from the commercial relationship, including future demands from simultaneous or later concluded contracts, have been settled.

This is true even if some or all claims of the Supplier are placed in a current account and the balance is drawn and recognized.

2. In the event of non-contractual behaviour by the Client, in particular default in payment, the Supplier is entitled, under the statutory provisions, to withdraw from the contract and demand the goods back on the basis of retention of title and the withdrawal.

With pledges or other interventions by third parties the Client must notify the Supplier immediately in writing.

3. The Client is entitled to sell the goods on in the ordinary course of business.

However, the Supplier already now assigns all claims accruing to it from the resale to the Client or third parties, regardless of whether the reserved goods are resold without or after processing.

4. The Client is authorized to collect these receivables after the assignment.

The authority of the Supplier to collect the claim remains unaffected, but the Supplier undertakes not to collect the debts as long as the Client meets its payment obligations in good order.

5. The Supplier may require that the Client notifies to it the assigned claims and their debtors, provides all information necessary for collection, surrenders the relevant documents and indicates the debtors.

If the deliverable together with other goods not belonging to the Supplier is resold, the claim of the Client against the purchaser is deemed to be assigned for the amount agreed between Supplier and Client.

6. The processing or transformation of reserved goods shall always be carried out by the Client for the Supplier. The Supplier shall be regarded in this context as the manufacturer.

7. If the processing takes place with other goods not belonging to the Supplier, the Supplier shall acquire co-ownership of the new object in the proportion of the value of the reserved goods to the other processed goods at the time of processing.

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The same applies to the object created by processing in other respects as for the reserved goods.

8. If the retained item is shipped abroad, the Client is required to take any necessary actions at the request of the Supplier for retention of title which corresponds largely to the above provisions.

## VII. Liability for faults in delivery

For delivery faults, which include the absence of expressly warranted characteristics, the Supplier shall be liable to the exclusion of other claims without prejudice to Article IX.4 as follows:

1. The warranty period is 12 months from the start date, but not later than 18 months after the date of shipment or readiness for dispatch

The date of commissioning must be notified to the Supplier in writing by registered letter stating the drive serial number and the number of the order confirmation under which the product was delivered.

1.1. If no such notice is made, there should be deemed to be a warranty period of 12 months from date of shipment, regardless of the actual date of commissioning.

1.2. All parts shall be repaired free of charge, at the reasonable discretion and underlying choice of Supplier or newly delivered, which inside of 12 months since the start-up due to a situation before the transfer of risk - particularly faulty design, materials or poor workmanship - turn out to be unusable or not insignificantly affected in their utility. Replaced parts become the property of the Supplier.

2. The warranty claims of the Client presuppose that its statutory inspection and complaint obligations (§§ 377, 381 HGB) are fulfilled.

If during the investigation or later a fault becomes apparent, the Supplier shall notify it immediately in writing. Immediate notification means if before delivery/commissioning it is made to the Client within 5 days, with the prompt dispatch of the notice sufficing to meet the deadline. For hidden faults, the deadline for notification of faults begins with the discovery of the fault.

If the Client fails to give proper notice of the investigation and/or faults, the liability for the fault which is not reported is excluded.

Delaying the shipment, installation or commissioning through no fault of the Supplier does not affect this obligation of the Client.

3. In case of faults of components of other manufacturers which the Supplier cannot eliminate for licensing or factual reasons, the Supplier shall choose either to assert claims against the manufacturers and suppliers for the own account of the Client or assign them to the Client at its discretion. Warranty claims against the Seller with such faults under other circumstances and according to the benchmark of these General Terms only arise if the legal enforcement of the above claims against the manufacturers and suppliers has been unsuccessful or, for example due to insolvency, is hopeless.

4. The warranty period for replacement parts is 12 months from date of shipment (= date of the delivery note).

5. The warranty periods are amendable by individual contracts.

6. No liability shall be assumed for damages that are caused by the following reasons: Unsuitable or improper use, faulty installation or commissioning by the Client or third parties, natural wear, faulty or negligent treatment, unsuitable equipment, replacement materials, defective construction works, unsuitable foundations, chemical, electrochemical or electrical influences, unless they are the fault of the Supplier.

If the Client or a third party repairs improperly, there is no liability of the Supplier for the resulting consequences. The same shall apply to any changes of the goods delivered without prior agreement of the Supplier.

7. To carry out any repairs or replacements deemed necessary at the Supplier's reasonable discretion, the Client must indicate the time and opportunity for communication with the supplier, otherwise the supplier is released from liability.

If the Supplier is in default with the elimination of the fault, the Client has the right to remedy the fault itself or by a third party and to claim from the Supplier for the necessary costs.

8. The costs incurred by the repair or replacement of parts shall be borne by the Supplier - insofar as the complaint proves to be justified - for the cost of the replacement item, including shipping in Europe and the reasonable costs of removal and installation in Europe, and also, if this can be reasonably demanded in the individual case, the costs of the provision of its technicians and assistants in Europe.

In other respects, the Client shall pay the costs.

9. For the replacement part and repairs, the warranty period is 12 months, max. until the expiry of the original warranty period for the deliverable.

10. The deadline for fault liability for the deliverable is not extended by the duration of the repair works caused by interruption of operation.

11. With any disassembly, alteration or improper maintenance activities on the part of the Client or third parties carried out without prior approval of the Supplier, liability shall be cancelled automatically.

12. Further claims of the Client, in particular compensation of damages that do not exist in the deliverable itself arise only in accordance with the following Articles XI and are otherwise excluded.

## VIII. Liability for breach of obligations

If through the fault of the Supplier the equipment delivered cannot be used according to the contract by the Client due to omitted or incorrect execution of proposals and advice before or after the conclusion of contract, as well as other contractual collateral obligations - in particular instructions for operation and maintenance of the deliverable - then, to the exclusion of any other claims, the provisions of Articles VII and IX apply accordingly.

## IX. Right of the Client to cancel the contract and other liability of the Supplier

1. The Client may withdraw from the Contract if for the Supplier the entire service becomes impossible before the transfer of risk.

The same applies to incapacity of the Supplier.

The Client may also withdraw from the contract if on an order for similar items the execution of part of the delivery is impossible in full and it has a legitimate interest in refusing a partial delivery; if this is not the case, the Client may reduce the consideration accordingly.

2. If there is a delay of performance within the meaning of Article III of the delivery conditions and the Client grants the defaulting Supplier a reasonable extension with the express declaration that it shall refuse to accept the goods after this deadline, and the deadline is still not met, the Client is entitled to withdraw.

3. If the impossibility occurs during delayed acceptance or through the fault of the Client, the latter remains obligated to pay.

4. The Client also has a right of withdrawal if the Supplier passage fails to meet a reasonable further deadline for the repair or replacement for a defect attributable to its negligence.

The right to withdraw from the Client shall also apply in case of impossibility or incapacity of the repair or replacement delivery by the Supplier.

5. In the event the customer cancels any order for customized products for which the supplier has manufactured work-in-process, the supplier will be entitled to reimbursement of only its direct and indirect costs for such work-in-process, to the extent the supplier has the right to such direct or indirect costs pursuant to the terms of the contract or under applicable law.

6. All other claims of the Client, and in particular for conversion, cancellation or reduction and for compensation for damages of any kind, even those damages that are not incurred in the delivery itself, arise only within the scope of Article X below.

## X. Exclusion of liability

Unless the above terms of sale and delivery indicate otherwise, the Supplier shall be liable to the Client for damages - for whatever legal reason - only in the event of

- a) Intention
- b) gross negligence of the owner/board members or senior employees
- c) culpable injury to life, body or health
- d) faults which it has fraudulently concealed
- e) in the context of a guarantee
- f) faults in the delivered goods insofar as it is liable under product liability law for personal or material damage to goods for private use.

In case of culpable violation of essential contractual obligations, the Supplier shall be liable for gross negligence limited to non-executive employees and for minor negligence, in the latter case typical of the contract and reasonably foreseeable.

Other claims are excluded.

## XI. Supplier's right of withdrawal

1. In the event of unforeseen circumstances within the meaning of Article III of the terms of delivery if they significantly change the economic importance or the content of the performance or significantly affect the operations of the Supplier and in the case subsequently appearing impossibility of performance, the contract shall be appropriately adjusted.

2. If this is not economically justifiable, the Supplier shall have the right to withdraw from all or part of the contract.

3. Damages claims cannot arise out of such withdrawal.

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4. If the Supplier which is to exercise the right of withdrawal, it shall inform the Client immediately after becoming aware of the significance of the event, even if an extension of the delivery period was agreed with the Client.

### **XII. Final provisions**

1. The place of delivery and payment is the location of the Supplier.
2. For all disputes arising from the contractual relationship, when the Client is a merchant, a legal entity under public law or a public-sector fund, it is necessary to bring the action before the court with jurisdiction for the headquarters of the Supplier. The Supplier shall also be entitled to sue at the venue of the Client.
3. The contractual relations are governed exclusively by the law of the Federal Republic of Germany, excluding UN sales law and German private international law.
4. Deviations from these provisions shall be invalid except with the express consent of the Supplier.
5. In the case of legal disputes over the content of these sales and delivery condition the text in German is the sole authoritative version.

**PIV Drives GmbH**

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