

Terms & Conditions

Document No: SEWFZE-SLS-013-2017 V1.2

SEW-EURODRIVE FZE
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<http://www.sew-eurodrive.ae>



GENERAL TERMS AND CONDITIONS OF SEW EURODRIVE FZE

§1 General Terms

- (1) Deliveries and services shall exclusively be handled on the basis of the applicable order confirmation, any special agreements made in writing, and in accordance with the following conditions.

Any other terms and conditions, particularly purchase terms and conditions, do not apply unless SEW has approved of their validity expressly in writing.

In case SEW agrees on the Customers' Terms and Conditions beside its own Terms and Conditions in writing, but the Terms and Conditions used by the Parties are contradictory in part, both Terms and Conditions shall apply as long as they correspond to each other, other provisions shall be replaced by the applicable law.

- (2) Offers from SEW are subject to change. An Agreement comes into effect with the order confirmation from SEW in text form.

- (3) These terms and conditions of sale and delivery apply only to companies in the sense of the Commercial Companies Law – Federal Law No.2 of 2015 as from time to time amended.

- (4) The Customer is obligated to provide correct and specified data in full and check the order confirmation for the correctness of the data provided by him.

- (5) Specifications regarding the delivery and service item including but not limited to catalogs, product information, electronic media or labels are based on SEW's general experience and knowledge and are to be considered as guide values or identifications only.

The product specifications as well as any explicitly agreed performance characteristics/ applications do not release the buyer from checking and testing the technical and legal qualification for the intended use of the product, especially regarding the property right.

The latest versions of all information materials such as catalogs and operating instructions e.g., can at any time be reviewed on www.sew-eurodrive.com.

- (6) Specifications regarding the properties and application options of SEW products do not involve any guarantees if not explicitly referred to as such.

- (7) Project planning support from SEW occurs only within the scope of the entire system specified by the Customer. SEW does not accept any liability for such systems, even if SEW offers and delivers goods that have been integrated, functional safety.

- (8) SEW reserves the right to make any changes to technical data and designs in the interest of the technical progress and development. Changes will be updated by SEW from time to time on SEW's website.

- (9) SEW reserves the right of ownership and copyrights for all patterns, illustrations, drawings, calculations, and similar information of corporeal and incorporeal nature,

including those in electronic form which have been provided by SEW. The same applies to documents and information designated as "confidential between SEW and its customer." Prior written permission from SEW is required to disclose this information to third parties.

- (10) These Terms and Conditions also apply to all future deliveries and services until new terms and conditions of sale and delivery from SEW come into effect.

§2 Prices and Terms of Payment

- (1) Prices set by SEW are quoted ex works or delivery storage sites provided that no other written agreements have been made. Prices do not include packaging, shipping, postage, insurance. Such costs shall be borne by the customer unless otherwise agreed between the Parties in writing.

- (2) Unless otherwise agreed in writing, payments shall be made based on agreed Quotations / Proforma Invoice / Invoices issued by SEW. In case the Parties agreed on payment of installments expressly in writing, and the customer does not pay one of the instalments of the payment agreed upon, SEW may, after notifying the customer, ask for dissolution with compensation. In the event the customer is in delay with the payment, SEW reserves the right to claim interests subject to the applicable law... but at least 12%.

- (3) Checks and bills of exchange shall be valid as a payment only upon encashment, whereby we reserve the right to accept bills.

- (4) In the event the customer is in financial difficulties at the time the goods were ordered or at a later stage the customer becomes aware of the fact that he is not able to meet its financial obligations towards SEW, he immediately shall inform SEW about these circumstances. SEW reserves the right to terminate the contract after having notified the customer within an appropriate period. In this case SEW reserves the right to carry out further orders under the condition that the customer has settled the correspondent payment in advance. In the event the customer does not settle the payment in advance SEW is entitled to withdraw from the contractual relationship with immediate effect. The same applies for failure to comply with the Terms of Payment, even if failure to do so concerns other orders from the mutual business relationship.

- (5) The Customer shall only be entitled to off-set claims if the Customer's counterclaims are undisputed or declared legally binding by judgement... The Customer may exercise the right of retention if the Customer's counterclaim is based on the same contractual relationship.

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§ 3 Delivery Time

- (1) Delivery and service shall be provided within the calendar week confirmed in text form, even though not prior to clarifying all implementation details. The Customer must fulfill all obligations incumbent upon the Customer, such as the provision of a down payment, in due time. If this is not the case, the delivery time shall be extended accordingly. This does not apply insofar as SEW is responsible for the delay.
- (2) The delivery time shall be extended further as appropriate in the event of unforeseeable conditions, which are beyond SEW's control, regardless of whether such events arose at SEW or its suppliers, for example, cases of force majeure, industrial actions, import and export restrictions, approval from official authorities, and other delays beyond a party's control, in the completion of delivery parts, malfunctions, or defective goods, delays in the delivery of essential parts and raw materials, insofar as those conditions have a significant influence on the completion or sending of the goods ordered. These types of conditions shall also be deemed beyond SEW's control if they occur during a delay that is already effective; excluding circumstances which occurred during an already existing delay.

SEW shall immediately notify the Customer of the beginning and end of such conditions.
- (3) The Customer may only withdraw from the Agreement due to delivery delays within the framework of the legal provisions only insofar as SEW is responsible for the delays.
- (4) If SEW causes delay and the Customer accrues losses due to the delay, the Customer shall be entitled to claim a flat-rate compensation. Such compensation amounts to 0.5% for each complete week of delay, amounting to a total of no more than 5% of the price for the part of delivery and service that, due to the delay, could not be put into appropriate operation. Any additional claims due to delay of delivery are exclusively subject to § 7 of these conditions. Notwithstanding this clause (no.4) it shall be permissible to the customer to prove a higher level of damage.
- (5) If the Customer causes a delay in accepting the delivery or culpably infringes another obligation to co-operate, SEW shall be entitled to demand compensation for any damages incurred, including any additional expenditures. Any further claims are reserved.

§ 4 Passing of Risk, Acceptance

- (1) Risk is passed to the Customer upon transfer of the delivery to the shipping company or carrier. The transfer to the carrier shall be considered as delivery to the Customer. This also applies if a carriage paid delivery, ex works delivery, or similar arrangements have been agreed between the parties. The Customer may not refuse to accept delivery on account of a nonessential defect.

§ 5 Reservation of Title

- (1) SEW reserves the right of title to delivered goods up to receipt of all payments due to SEW arising from the business relationship with the Customer
- (2) If the Customer defaults on a payment due date, SEW shall be Entitled to ask for dissolution of the contract and to re-enter the goods in its inventory after issuing a dunning notice. In the event it is not possible to re-enter the goods in SEW's inventory due to the Customers' responsibility SEW is entitled to claim compensation. The Customer herewith agrees to allow SEW to enter its premises without delay during normal business hours for the purpose of repossessing the goods.
- (3) SEW shall be entitled to withdraw from the Agreement if the Customer acts contrary to the Agreement, in particular by defaulting payment. For returning goods as a result of cancellation or withdrawal, SEW shall only be obligated to issue credit in the amount of the invoice value with a deduction of decreased value determined by equitable discretion as well as the return and disassembly costs, however at least over 30% of the invoice value. SEW ensures higher credit if the Customer proves a higher recoverability of the value of the repossessed goods.
- (4) The Customer is obligated to take care of the goods; in particular the Customer is obligated to insure the goods up to the replacement value for fire, water, and theft damage at the Customer's own expense once the goods have been transferred to the carrier, shipping e.g..
- (5) The Customer is to inform SEW immediately in case of seizure, confiscation or other act of disposal or encroachment by third parties.
- (6) The Customer shall be entitled to resell the delivered goods in accordance with proper, business practices. Beyond the right to resell the goods in accordance with a proper business practice, the Customer is not allowed to do Seizure, charging as security or other acts of disposal is prohibited.
If the Customer resells goods delivered by SEW, regardless of the condition of such goods, the Customer shall cede to SEW all receivables originating from mutual business relationships arising from the sale up to the value of the goods against its Purchasers with all ancillary rights to SEW and immediately inform its Purchaser and obtain its consent for the assignment. The Customer shall be entitled to collect such receivables.
- (7) Entitlement to resale and collection of receivables can be revoked, if the Customer enters into default of payment or if the Customer financial circumstances or credit worthiness significantly deteriorates. Upon request, the Customer shall be obligated to disclose the withdrawal to its recipients unless SEW does not inform the recipients of the Customer itself, and give SEW the necessary information for the assertion of its rights against the Customer's recipients and surrender documents.

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- (8) The Customer agrees to always carry out any processing or modification of delivered goods for SEW. If the goods are used in connection with objects not belonging to SEW, SEW acquires joint ownership of the new object in the proportion of the value of the goods to the other processed objects at the time of processing. For objects resulting from processing, the same applies as for goods delivered with due reserve. In case delivered goods are processed or connected with other goods and SEW lost its property by law, the customer shall indemnify and hold harmless SEW and therefor compensate SEW. The compensation shall be calculated based on the value of the goods at the time of delivery.
- (9) SEW reserves the right to release the securities to which SEW is entitled, if potential value thereof exceeds the claims to be secured by more than 10%. The choice of securities to be released is in the sole responsibility of SEW.

§ 6 Warranty Claims

- (1) In the event of a deficiency, the purchaser must inform SEW immediately in writing.
- (2) If it becomes apparent after delivery of the goods sold that the goods received differ from those agreed upon in quantity or nature, or if there is a flaw in them, the customer shall inform SEW of the disparity or flaw within 15 days of the date of actual delivery to him of the goods sold. However, if the flaw is concealed such that it is not discovered by normal examination he must notify SEW of the flaw immediately upon its discovery.

If the customer does not inform the SEW of the disparity or defect or does not file a claim within the terms stated by the law, his claim shall not be heard where it is denied and where there is no lawful justification, unless the customer proves deception on the part of SEW.

- (3) In the event of defects, the Customer shall be entitled to claim performance of contract in which case SEW shall be entitled to select whether to eliminate the defect (supplementary performance) or to supply a non - defective good (replacement) or service.

The Customer shall grant SEW a reasonable time and opportunity to undertake performance of contract and shall not charge for doing so. Customers have the right to remedy the defect by themselves or order a third party to perform any necessary repairs in urgent cases only.

Customers are obligated to inform SEW immediately. Any expenses associated with such repairs can be submitted to SEW for reimbursement.

Goods which the Customer claims to be defective shall only be returned to SEW upon the request of SEW and, where applicable, properly packaged with a packing slip indicating the order number.

- (4) In the event that defects are to be resolved, SEW agrees to bear all expenses incurred by the resolution of the defect, particularly transportation, freight, labor and material costs, as long as such costs are not increased by the fact that the goods had been brought to another location

other than the place of performance, unless the transport complies with designated use.

- (5) In the event that supplementary performance is not met the Customer shall be entitled to reduce the purchase price or withdraw from the Agreement.
- (6) Any damages caused by any of the reasons listed below and for which SEW is not held responsible as a breach of duty, do not constitute a right to claim under warranty: Inappropriate or improper use after passing of risk, particularly excessive use, incorrect assembly or startup by the Customer or third party despite the provision of appropriate assembly instructions, natural wear and tear, incorrect or negligent handling, unsuitable operating material, replacement materials, inadequate construction work, inobservance of operating instructions, unsuitable operating conditions, particularly unsuitable chemical, physical, electromagnetic, electrochemical or electrical influences, climatic or environmental influences as well as excessively high or low ambient temperatures, labor disputes acts of god or any other unusual and unforeseeable events.
- (7) The period of limitation for warranty claims is two (2) years as of the beginning of the legal period of limitation.
- (8) Any additional claims are exclusively subject to § 7 of these Conditions.

§ 7 Liability for Compensation of Damages, Expenses and VAT

- (1) SEW shall be liable without limitation for any damages resulting from deliberate or grossly negligent breach of duty as well as culpable injury to life, body or health unless governed otherwise by applicable laws.
- (2) Notwithstanding the afore said in case of gross negligence on the part of non-managerial employees, SEW's liability is limited to property damage deemed typical within the scope of this Agreement and which can be reasonably foreseen.
- (3) In case of minor negligence, SEW shall only be liable for property damage only in the event of violation of significant contractual obligations. In this regard too, the liability of SEW shall be limited to property damage deemed typical and foreseeable within the scope of this Agreement.
- (4) Any other liability for damages other than those stated above is void, without taking the legal nature of the submitted claim into consideration.
- (5) A preclusive time limit of 24 months applies to the limitation of all claims that are not subject to the statutory limitation due to a fault in the goods. The time limit starts from the point of recognition of the damage.
- (6) To the extent that supplies provided by SEW are subject to any tax, including Value Added Tax, as per the applicable laws in force, SEW will add such taxes to any invoices it raises to customers.

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- (7) SEW shall be indemnified and held harmless by its customers on a continuing basis against any liability, including any interest, penalties or costs incurred which is levied, demanded or assessed on SEW at any time in respect of the customer's failure to account for or to pay any taxes, including VAT relating to payments made to the SEW.

§ 8 Right of Withdrawal

SEW can withdraw from the Agreement either in part or in full by written declaration, in the event of the Customer's inability to pay, over-indebtedness of the Client, discontinuation of payment by the Client or if the customer has filed for insolvency. SEW shall be entitled to exercise its right to withdraw from the Agreement until the opening of insolvency procedures for the Client's assets. The Customer herewith agrees to provide SEW access to its place of business during normal business hours and repossess the goods.

§ 9 Export Restrictions

The delivery and/or service described in the order confirmation may be subject to export control regulations. This means each order applies subject to the fact that the delivery/service is not prohibited under these regulations and that approvals, authorizations or permissions are given which SEW requires in order to fulfill the contract. The Customer assures to always be compliant with the above mentioned export control regulations.

§ 10 Place of Performance, Place of Jurisdiction & Applicable Law

- (1) Unless otherwise stated in the order confirmation, SEW EURODRIVE FZE in Dubai, U.A.E. is the place of performance.
- (2) This Agreement shall be governed by the Laws of Dubai.
- (3) In the event of a dispute arising out of or relating to this contract, including any question regarding its existence, validity or termination, the parties shall first seek settlement of that dispute by mediation.

If the dispute is not settled by mediation within 15 days of the commencement of the mediation, or such further period as the parties shall agree in writing, the dispute shall be referred to and finally resolved by arbitration under the Arbitration Rules of the Dubai International Arbitration Centre, which Rules are deemed to be incorporated by reference into this clause. The language to be used in the mediation and in the arbitration shall be English.

§ 11 Severability Clause

If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or provisions hereof or the whole of this Agreement, but such term or provision shall be deemed modified to the extent necessary in the court's opinion to render such term or provision enforceable, and the rights and obligations of the Parties shall be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the Parties herein set forth.