

# General Terms and Conditions of Provision of Maintenance Services



SEW EURODRIVE Polska Sp. z o.o.  
01.11.2021

## § 1. PRELIMINARY PROVISIONS

1. These General Terms and Conditions of Provision of Maintenance Services (GTCPMS) define the general terms and conditions of cooperation between SEW-EURODRIVE POLSKA Sp. z o. o. with its registered office in Łódź at ul. Techniczna 5, entered in the Register of Businesses of the National Court Register maintained by the District Court for Łódź Śródmieście in Łódź, 20th Commercial Division of the National Court Register, under KRS 0000079236, REGON: 471388462, Tax Identification Number [NIP]: 7261678845, with the share capital in the amount of PLN 3,250,000, (SEW), and the Client (recipient of maintenance services (including maintenance and repair) provided by SEW (Services). The subject of the Services may include permanent maintenance services provided by SEW to the Client or single repair orders granted to SEW by the Client. Any equipment/parts provided by SEW to the Client in the performance of the Service shall be an integral part of that Service. The General Terms and Conditions of the Warranty established by SEW Eurodrive Polska Sp. z o.o. shall apply to equipment/parts delivered to the Client.
2. The acceptance of the offer of SEW obliges the Client to comply with these GTCPMS. The GTCPMS shall bind the Client to the full extent, unless SEW and the Client expressly, in writing, under pain of nullity, exclude the application of these GTCPMS or some of their provisions.
3. These GTCPMS exclude the use by the Client of its own model agreements, regulations or other general terms and conditions of concluding agreements – to the extent that they are inconsistent with these GTCPMS. A derogation from the principle expressed above requires the acceptance of SEW in writing, under pain of nullity, by persons authorised to represent SEW.
4. Any changes to the offer of SEW and the GTCPMS shall require the approval of the Management Board or the Proxy of SEW without the possibility to assign this right to any third party. This change may be made only in the form of a written agreement concluded by SEW and the Client, otherwise being null and void.
5. The agreement concluded on the basis of the acceptance by the Client of the offer of SEW is a final document and replaces all other documents and arrangements. This rule does not apply to agreements and arrangements concerning the obligation of confidentiality signed by SEW and the Client. In such a case, the provisions concerning the confidentiality obligation resulting from various documents shall complement each other.
6. The Agreement is deemed concluded when SEW submits a written confirmation of acceptance of the Client's order, which is placed by the Client, on the basis of an offer submitted by SEW or another document, which, due to its content and form, is binding for SEW.
7. If after the submission of an offer by SEW, but prior to its acceptance by the Client, the Client, in its order or in another document, introduces changes to the conditions, including technical and/or financial conditions presented in the offer of SEW, which influence the content of the offer of SEW, it is considered that the Parties conduct negotiations. Acceptance of the conditions proposed by the Client requires the confirmation by SEW in the form of acceptance of an order for execution or in the form of another document which, due to its content and form, is legally binding for SEW. The absence of the above acceptance means that SEW maintains its original offer, which expires on the date of expiry of the validity period.
8. If the offer of SEW does not contain different provisions, it shall be binding for SEW for a period of 30 days from the date of its preparation by SEW.
9. Any changes to the subject of the order in the course of its performance shall require the consent of SEW, expressed in writing, otherwise being null and void.
10. It is noted that the drawings provided by SEW together with the offer are for reference only. SEW reserves the right to make changes during the performance of the subject of the agreement, provided that the functionality resulting from the SEW offer constituting the basis for conclusion of the agreement is maintained.
11. In the absence of the Client's written statement on acceptance of the offer of SEW, the Client's commencement of cooperation in the scope of performing the subject of a given offer of SEW means acceptance of the terms and conditions of the offer of SEW, including the GTCPMS.
12. In the event that the provisions of the offer of SEW and the GTCPMS are in conflict, the following documents shall apply in the appropriate order: the offer of SEW and the GTCPMS. This means that the provisions of the document placed higher in the hierarchy above defined in this paragraph shall apply. The contrary provisions of the document placed lower in the hierarchy above shall be null and void.

# General Terms and Conditions of Provision of Maintenance Services



SEW EURODRIVE Polska Sp. z o.o.  
01.11.2021

## § 2. VALUATION OF THE COSTS OF SERVICE PROVISION

1. The basis for the valuation of performance of a Service is the diagnostics of the condition of the Device carried out by SEW. The diagnostics of the condition of the Device may require the disassembly of the Device. The valuation of the cost of performance of the Service shall be made in writing or forwarded to the Client by e-mail using the e-mail addresses established by SEW for the Client.
2. Based on the diagnostics performed in pursuance of para. 1, SEW shall provide the Client with a binding Offer for the performance of the service; the Offer shall be binding for a period of 30 days following the date of sending the Offer to the Client by SEW.
3. The Client shall pay the remuneration to SEW for the performance of the diagnostics, which is to be calculated in accordance with the hourly rates for the provision of Services, whereby the rates shall be published on the SEW's website or provided to the Client via e-mail as separate information.
4. In the case of conclusion of the Agreement for the performance of a Service concerning a specific Device, the SEW's remuneration for the performance of diagnostics of such device shall be included in the remuneration for the performance of the Service. Thus, it is agreed that the amount of the SEW's remuneration from the Offer shall include the SEW's remuneration for the diagnostics.
5. If the Service, upon the Client's request and with the consent of SEW is to be provided at a location other than the SEW's service centre, and thus the diagnostics is to be performed without the inspection of the Device, the valuation drawn up by SEW as part of the diagnostics shall be estimated according to SEW's non-verified diagnostic assumptions. For this reason, the SEW's remuneration specified in the Offer may be subject to an increase based on the SEW's increased workload as well as additional required parts, whereby SEW shall inform the Client about this fact in the first phase of performance of the Service. Failure of the Client to make an objection within 12 h from the date of delivery of the aforementioned information shall mean the acceptance of the terms of performance of the Service.

## § 3. OFFERS

1. In view of the 30-day time limit during which the Offer remains binding for SEW, its acceptance by the Client

should take place within the aforementioned time limit. The offer made by SEW shall be accepted by the Client's Order placed in the written form. The Order may also be placed by e-mail using the e-mail address indicated in the SEW's Offer. In such a case, the Order shall be deemed to have been placed upon confirmation of its receipt by SEW.

2. If the Device which was subjected to diagnostics, is located at the SEW's service centre and also if the SEW's Offer has not been accepted, the Client shall collect the Device from the SEW's warehouse within 14 days of the date of expiry of the binding time limit of the SEW's Offer. Any delay in the collection of the Device shall result in the Client's obligation to cover the costs of storing the Device calculated according to the rate applied by SEW, which, however, cannot be lower than the market rate for storage of a similar type and conditions in Łódź. If the Device is not collected by the Client within 30 days of the date of expiry of the binding time limit of the SEW's Offer, then SEW shall be authorised to scrap the Device at the Client's expense. The scrapping of the Device shall not exempt the Client from the obligation to pay the remuneration to SEW for the storage of the Device.
3. If the Offer is not accepted, the Device shall be returned to the Client by SEW in the state required for the needs of performing the diagnostics - after the partial disassembly or in parts. Upon the Client's request, SEW shall re-assemble the Device for a fee, provided that the technical condition of the Device makes this possible. The terms of such a service shall be covered by a separate agreement.

## § 4. PERFORMANCE OF SERVICE AGREEMENTS

1. The services shall be carried out in the SEW's service centre or outside its area (also on the premises of the Client's company), depending on the arrangements included in the SEW's accepted Offer or in another document accepted by SEW in writing under pain of being null and void.
2. The Services shall be performed by SEW during working days (days other than the public holidays excluding Saturdays) between 7.00 a.m. and 3.00 p.m. If the Service is performed outside the SEW's service centre, the Client shall enable SEW to perform the Services within the aforementioned periods of time. If the Parties agree that the Services will be performed outside the periods of time indicated above, then the Client shall be charged with additional costs in accordance with the SEW's maintenance service rates applicable at the given time.

SEW-EURODRIVE Polska Sp. z o.o., ul. Techniczna 5, PL 92-518 Łódź Tel. +48 42 293 00 00  
[www.sew-eurodrive.pl](http://www.sew-eurodrive.pl)

Share capital: PLN 3,250,000 KRS (National Court Register): 0000079236 RH B 5969 District Court Łódź Śródmieście  
Business Registry Number (REGON): 471388462 Tax ID (NIP): 726-16-78-845 Bank account no.: mBank S.A. O/Łódź 82 1140 1108 0000  
3399 9600 1001

# General Terms and Conditions of Provision of Maintenance Services



SEW EURODRIVE Polska Sp. z o.o.  
01.11.2021

3. In the case of performance of a Service outside the SEW's service centre, also on the premises of the Client's company or in another location agreed upon with the Client, the Client shall provide the people designated by SEW to perform the Services with safe access to the Device, undisturbed by any other entities, inform SEW's representatives about health and safety requirements applicable at the place of performance of the Services and provide SEW's representatives with a source of energy and technical facilities as well as (if there is such an obligation) with special personal protection equipment, except for: working clothing, working shoes, helmet, ear defenders and protective goggles. Furthermore, the Client shall ensure the participation in the performance of the Service by a person authorised to accept the Service and issue all the required authorisations and permits for the performance of the Service to SEW representatives, in particular, this refers to passes which allow the SEW representatives to gain access to the place of its performance.
4. If the Service is to be performed outside the SEW's service centre and such performance turns to be impossible for reasons not attributable to SEW, SEW shall be entitled to charge the Client with the costs of performance of additional service activities, costs of downtime and costs of repeated travel, according to the rates applicable at SEW, which were the subject of separate information delivered to the Client, also via e-mail correspondence.
5. By ordering the performance of the Service, the Client shall submit a statement in which it will indicate whether the parts listed as part of the Services provided are to be returned to the Client. Failure to submit such a statement by the Client shall be regarded as an order to dispose of these parts by SEW.
6. If the Client orders additional services which are beyond the scope of the Service, or if it turns out that it is necessary to carry out additional works, which could not have been foreseen at the moment of submission of the SEW's Offer, the period of provision of the Service shall be extended accordingly.
7. The Device shall be delivered to the SEW's service centre and collected at the expense and risk of the Client. In each case, the decision regarding the possible insurance of the Device for the time of its transport and the cost of such insurance shall be incurred by the Client.

## § 5. ISSUANCE OF THE DEVICE

1. SEW shall notify the Client by e-mail that the Device is ready for collection.
2. If the Service is performed at the SEW's service centre, the Device shall be issued at the SEW's warehouse. Acceptance of the performed Maintenance Service shall be effected on the basis of issuance of the Device.
3. If the Service is carried out in the SEW's service centre, the Parties may also agree that SEW will transport the Device to a place indicated by the Client for a payment. In such a case the Client shall ensure the unloading of the Device at the delivery site at its own expense. The completed Service shall be accepted at the moment of delivery of the Device to the Client, based on the waybill or/and document confirming the issuance of the Device (delivery note). SEW and the Client may also agree on other terms of delivery of the Device.
4. If the Device is delivered to the Client, it is obliged to accept the Device on the day of its delivery. If the people authorised to accept the Device are not available at the delivery site, SEW shall perform the unilateral acceptance of the Service, whereby it shall be assumed that SEW has provided its service in a proper manner.
5. The decision as to whether or not to insure the Device for the period of transport carried out pursuant to (3) and (4) above, and the cost of such insurance shall be the responsibility of the Client.
6. If the delivery of the Device pursuant to para. (3) and (4) above is delayed for reasons attributable to the Client, then the risk of accidental loss or damage to the Device shall be transferred to the Client at the time of preparing the Device for shipment / collection, of which SEW notifies the Client in writing or by e-mail.
7. If the Service is performed on the Client's premises or at any other place agreed with the Client, the Client shall accept the Service and check the Device in terms of its performance and correct operation. The acceptance performed in this way shall be binding on the Client, and the signed service report shall confirm that the Service was performed correctly. The lack of any reservations in the service report shall mean that the Service has been performed correctly.
8. If the Service is performed on the Client's premises, in the event that no persons authorised to accept the Service are present at the site where the Service is performed or in the event that the Client unreasonably refuses to accept the

# General Terms and Conditions of Provision of Maintenance Services



SEW EURODRIVE Polska Sp. z o.o.  
01.11.2021

Service, SEW shall unilaterally accept the performance, which shall imply that SEW has performed the Service correctly.

## § 6. TERMS OF PAYMENT OF THE REMUNERATION

1. Payment for the Service shall be made in accordance with the Order taking into account the remuneration recalculation set out herein. Any prices provided by SEW shall exclude the VAT
2. The settlement of the SEW's remuneration shall take place in Polish zlotys, if the Parties do not agree on any other settlement currency before sending the Order.
3. The remuneration shall be paid by transfer to the bank account indicated by SEW. Any set-off of mutual debts of the Parties, shall require the consent of both Parties in each case, expressed in writing under pain of being null and void.
4. The payment for the service shall be effected within the time limit set by the Parties and indicated in the invoice. In the payment term is exceeded by the Client, SEW has the right to charge statutory interest for delay in commercial transactions. Any possible reservations, comments or complaints made by the Client and their processing shall not suspend the payment term.

## § 7. SECURITY FOR CLAIMS

1. If the Client is the owner of the Device, SEW shall have a contractual right of pledge on the Device delivered under this document to secure its claims for, among other things, remuneration for the Services performed and payment of the price for the replaced spare parts and consumables.
2. The aforementioned contractual right of pledge shall also apply to claims for Services provided at any time earlier than the date of the concluded agreement.
3. If the Client is not the owner of the Device, SEW shall have the right to retain the Device as security for claims such as remuneration for the Service performed, payment of the price for replaced spare parts, consumables and components, pursuant to Article 461 of the Civil Code.

## § 8. RESERVATION OF TITLE

1. Until all contractual amounts due are paid by the Client, SEW shall retain title to all parts and material elements

used in the performance of the Service, and this, irrespective of any other securities.

2. If the elements used in the performance of the Service are combined with the Device, SEW shall reserve an interest in the co-ownership of the subject of the Service up to the value of the Service (SEW's remuneration).

## § 9. GUARANTEES AND LIABILITY

1. SEW shall grant the quality guarantee as to the elements used in the performance of the Service based on SEW's General Terms of Warranty published on the SEW's website. The quality guarantee shall not cover the entire device and other components. The quality guarantee shall supersede the statutory warranty.
2. If there is any delay in the performance of the Service on the part of SEW and the Client suffers damage as a result of this, the Client shall be entitled to claim flat-rate compensation for the delay amounting to 0.5% for each completed week of delay, but in total no more than 5% of the remuneration for the part of the Service affected by the delay.
3. SEW's liability towards the Client in connection with the conclusion and performance of the agreement as well as liability for tort, including for any contractual penalties, shall not, however, include liability for lost profits and shall in each case be limited to the amount of SEW's remuneration.
4. SEW has the right to charge the Buyer with a contractual penalty in the amount of 30-100% of the order value, if, for reasons related to the Client, the contract is renounced. SEW reserves the right to claim damages in excess of the contractual penalty.

## § 10. EXPORT CONTROL

1. Without any exceptions, the Client strictly undertakes not to sell, directly or indirectly, Devices and Services covered by the agreement with SEW to countries of the highest risk (UHR), including to all companies operating in those countries – in accordance with all EU delegated provisions supplementing Directive (EU) No. 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for money laundering or terrorist financing, amending Regulation (EU) No 648 / of the European Parliament and of the Council of 2012 and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, including Delegated Regulation (EU) 2016/1675 and Delegated Regulation



# General Terms and Conditions of Provision of Maintenance Services



SEW EURODRIVE Polska Sp. z o.o.  
01.11.2021

2018/1467. The Client confirms that it is fully aware of the content of the UHRC list and has undertaken to comply with the above obligation, as well as to monitor the up-to-date UHRC list. In addition, the Client is obliged to implement mechanisms in its business in order to prevent any abuse on the part of Clients focusing on the sale of contractual products to the UHRC. These mechanisms are intended to guarantee the defensive identification of the final beneficiary who purchases the products covered by the contract with SEW. Client is obliged to take all legal steps with due diligence to prevent indirect sales to UHRC. Any violation of the sales prohibition to the institutions of companies operating in the UHRC shall be a gross violation of the material contractual provisions and shall result in the Client's obligation to pay compensation.

2. The Parties (Client and SEW) confirm that the supply and/or the service or a part thereof, in particular the export and transit of goods, technology transfer, trade and intermediation, technical support or the provision of economic services may be subject to export control laws and regulations in force in the EU, Germany, the USA or any other country (e.g. restrictions on countries, persons, use, etc.) and financial sanctions (later referred to as export control provisions).
3. The Parties shall comply with all applicable export control laws. This applies in particular to any provisions of the country of destination. The Parties consider that the supply and/or service affected by such export controls may require authorisation or may be prohibited. Should any applicable export control regulation prevent SEW or the Client not only temporarily to comply with this agreement, either party shall have the right to cancel the deliveries and/or the service to which the application relates, in whole or in part.
4. Delays caused by the authorisation procedures of the competent authorities of export control shall extend the execution time accordingly; this shall apply in particular to delivery times.
5. Any claims for damages in connection with rejection or delay of an application with respect to export control regulations shall be excluded unless they relate to damage caused by detriment to health or damage resulting from wilful misconduct or gross negligence.
6. The Parties undertake to cooperate in all licensing procedures. On request, each party shall promptly provide the other party with relevant information / documents (e.g. end-use certificates) required in the application process.

7. The Client undertakes to ensure that the Client and its employees/representatives comply with all obligations under Council Regulation (EC) No 428/2009 of 5 May 2009 establishing a Community regime for the control of exports, transfer, brokering and transit of dual-use items and other obligations under international agreements and regulations. Therefore, the Client undertakes to refrain from any actions involving the sale of products covered by the agreement with SEW, which would pose a risk to SEW in connection with a potential breach of the above provisions.

## § 11. FORCE MAJEURE

1. Force Majeure shall mean an external event which has an impact on the performance of the Agreement, which cannot be foreseen and is beyond control of SEW or the Client, and which, with due diligence, cannot be avoided or prevented. Within the meaning of the provisions of the Agreement, the Force Majeure "shall mean, in particular, acts or omissions of authorities, strikes, lockouts, wars, blockades, uprisings, riots, epidemics, earthquakes, fires, floods and strong winds such as hurricanes or tornadoes, as well as disruptions in the supply chain of components/equipment used by SEW to perform the subject of the Agreement.
2. If any of the Parties to the Agreement must halt or delay its activities under the Agreement as a consequence of operation of Force Majeure" - it shall notify the other Party of this fact in writing within 14 days of the date of occurrence of such an event, specifying the event, its causes and consequences for the performance of the Agreement.
3. The Party who has submitted such written notification shall be exempted from its obligations or from keeping the deadline for its obligations for as long as this event continues. The time limit for the performance of mutual obligations shall be extended accordingly for the duration of the event referred to hereinabove.
4. The Party affected by the operation of the Force Majeure shall make reasonable efforts to minimise its effects and shall resume the performance of the Agreement immediately, as soon as this is possible.
5. A delay or failure to implement the provisions of the Agreement caused by the Force Majeure shall not be the basis for:
  - a) termination of/withdrawal from the Agreement,

# General Terms and Conditions of Provision of Maintenance Services



SEW EURODRIVE Polska Sp. z o.o.  
01.11.2021

- b) lodging any claims for damage or additional cost incurred by the other Party.
- 6. If, as a consequence of Force Majeure, the performance of the Agreement is delayed or suspended for the continuous period of 60 days or for the total sum of several such periods which exceeds 90 days, then each of the Parties has the right to terminate/withdraw from the Agreement by delivering a written notice to the other Party under pain of being null and void.

## § 12. FINAL PROVISIONS

- 1. In matters not regulated in the agreement concluded between the Client and SEW, the provisions of Polish law shall apply. The competent court for the resolution of any disputes arising from the performance of the agreement shall be the court having jurisdiction over the registered office of SEW. In the event that the Client has its registered office outside the territory of the Republic of Poland, the competent court shall be the court of the city of Łódź. Any agreements and international conventions establishing a different jurisdiction shall be excluded.
- 2. Pursuant to art. 4c of the Act of 8 March 2013 on counteracting excessive delays in commercial transactions, SEW represents that it has the status of a large entrepreneur.

Tomasz Wieland  
  
Managing Director/Chairman of the Board