

## Terms and conditions of sale and delivery of SEW-EURODRIVE GmbH & Co KG (“SEW”)

### § 1 General

- (1) Deliveries and services shall take place exclusively on the basis of the applicable order confirmation, any special agreements made in writing and in addition in accordance with the following terms and conditions of sale and delivery. Our terms and conditions of sale and delivery shall apply exclusively. Deviating, conflicting or supplementary general terms and conditions of business, including terms and conditions of purchase of the customer shall not apply, unless SEW has expressly agreed to their applicability in writing. This agreement requirement applies in all cases, in particular also if SEW carries out the delivery in knowledge of the deviating, conflicting or supplementary general terms and conditions of business of the customer without reservation.
- (2) These terms and conditions of sale and delivery only apply vis-à-vis entrepreneurs who are carrying out their commercial or independent professional activities, vis-à-vis legal persons under public law and vis-à-vis public law special funds.
- (3) These terms and conditions of sale and delivery also apply to all future deliveries and services until new terms and conditions of sale and delivery of SEW come into effect. These apply accordingly to work services. Instead of acceptance of the delivered products, acceptance shall take place in the case of work services.
- (4) Should these terms and conditions of sale and delivery provide for a written form requirement, provision of the text by fax, e-mail or remote data transfer shall suffice for compliance with this written form requirement.

### § 2 Conclusion of the contract, quality, scope of service

- (1) Offers of SEW are non-binding, unless otherwise stated by SEW. The order of the customer is deemed to be a binding contractual offer. A contract shall come into existence at the time of the written order confirmation by SEW or when SEW performs the order, in particular if SEW does so by shipping the products.
- (2) Should the customer order standard goods and provide technical data in relation to the said standard goods in its order, the technical data must be correct, i.e. it must correspond to the data sheet of the respective standard goods. Furthermore, the customer shall be obliged to immediately check the technical data referred to in the order confirmation following receipt and must provide immediate notification to SEW in writing if it does not wish to accept the technical data contained in the order confirmation.
- (3) The quality of the goods shall be determined in accordance with the agreed performance characteristics (in particular type, quantity, quality, functionality, compatibility, interoperability). Should the parties have agreed quality, a purpose of use, specific accessories or specific instructions, only the said quality, only this quality, suitability for this purpose of use, the said accessories and the said instructions will be owed. In this respect in particular, the customary use of the goods or the quality of the goods, the accessories or the instructions which the customer can expect without further agreement shall not be relevant.
- (4) Both the product specifications and any explicitly agreed performance characteristics/purposes of use shall not release the buyer from its responsibility to check and test the technical and legal suitability for the intended use of the product. All of the information materials (for example catalogs and operating instructions) are available on the internet via [www.sew-eurodrive.de](http://www.sew-eurodrive.de) or [www.sew-eurodrive.com](http://www.sew-eurodrive.com).
- (5) Information regarding the quality and the application options of SEW products does not include any guarantees, in particular no quality or durability guarantees, unless expressly stated as such by SEW in writing.

- (6) Should the object of delivery be goods which are integrated in an entire system of the customer, the customer shall be obliged to provide SEW with the relevant technical data of the entire system for the goods to be delivered in good time, correctly, in full and in writing. Project planning support from SEW takes place only within the scope of the entire system specified by the customer. SEW does not accept any liability for the entire system, even if SEW offers and delivers goods that have integrated, functional safety.
- (7) In relation to the scope of the delivery, the written order confirmation of SEW shall be solely decisive. Technical data and construction remain subject to change, should these represent deviations that are customary in the sector or should the deviation exist within the DIN tolerances or should the changes be of a minor nature and be reasonable for the customer.
- (8) SEW reserves all ownership rights, copyright and other property rights in relation to all offer documents and other documents, in particular samples, figures, drawings, calculations and similar physical and intangible information, also in electronic form. The same applies to documents and information designated as “confidential”, “secret” or similar. Any disclosure to third parties or otherwise making the documents accessible requires the prior written agreement of SEW. Following a request by SEW, the customer shall immediately surrender all offer and other documents to SEW, should these no longer be required during regular business processes.

### § 3 Prices and payment terms

- (1) Unless otherwise agreed in writing, the prices are ex-works or ex-warehouse. Prices do not include packaging, shipping, postage, insurance, statutory value added tax, customs duties and other charges. The costs incurred in this respect will be billed separately. The statutory value added tax will be stated separately in the invoice to the sum applicable by law on the day of billing.
- (2) Unless otherwise agreed in writing, payments are to be made after delivery and receipt of an invoice within 30 days of the date of the invoice by bank transfer without any deductions free to the SEW paying location. In case of payment default, the customer must pay default interest to the sum of 9% points above the respective base rate of interest per annum. Further claims of SEW shall remain unaffected.
- (3) Should SEW be obliged to provide preliminary performance and should it become apparent after conclusion of the contract that the claim of SEW relating to payment of the price is endangered by lack of performance capacity on the part of the customer, SEW shall be entitled to a right to refuse performance in accordance with the statutory regulations. SEW may set a reasonable deadline by which the customer must, at its discretion, provide counter-performance or security in return for performance. Following the fruitless expiry of the deadline, SEW can rescind the contract and bring damages claims in accordance with the statutory regulations. Further rights to refuse performance, rights of retention and other rights shall remain reserved on the part of SEW.
- (4) The customer shall only be entitled to rights of set off if its counter-claims have been acknowledged by SEW, are undisputed or have been recognized by a court. The customer may exercise a right of retention to the extent that its counterclaim is based on the same contractual relationship.

### § 4 Delivery time and delivery delay

- (1) The delivery and service shall take place within the delivery deadline agreed in writing or on the delivery date that has been agreed in writing.

#### Hauptverwaltung / Headquarters

SEW-EURODRIVE GmbH & Co KG Postadresse / Postal address  
Ernst-Blickle-Straße 42 SEW-EURODRIVE GmbH & Co KG  
76646 Bruchsal · Germany 76642 Bruchsal · Germany

Telefon 07251 75-0 [www.sew-eurodrive.de](http://www.sew-eurodrive.de)  
Telefax 07251 75-1970 [sew@sew-eurodrive.de](mailto:sew@sew-eurodrive.de)

#### Bankverbindungen / Bank accounts

Deutsche Bank AG	IBAN DE61660700040200425700	BIC DEUTDE33
Commerzbank Bruchsal	IBAN DE22663400180470888900	BIC COBADE33
LBBW	IBAN DE21600501010008628604	BIC SOLADE33
Sparkasse Kraichgau	IBAN DE85663500360000020313	BIC BRUSDE33

#### USt-Ident.-Nr. / VAT Regist. No. DE 143080517

Kommanditgesellschaft, Sitz: Bruchsal, RG Mannheim HRA 230970  
Komplementärin: SEW-EURODRIVE Verwaltungs-GmbH  
Sitz: Bruchsal, RG Mannheim HRB 230207  
Geschäftsführender Gesellschafter: Jürgen Blickle  
Geschäftsführung: Jürgen Blickle (Vorsitzender), Udo Aull, Dr. Jörg Hermes,  
Dr. Hans Krattenmacher, Christian Mayer, Johann Soder, Dr. Jürgen Zanghellini

- (2) The delivery deadline shall commence at the time of conclusion of the contract, however not prior to the full provision of the documents, permits and approvals to be obtained by the customer and also not prior to clarification of all technical matters and receipt of an agreed downpayment (or receipt of full payment in case of a foreign transaction). In case of a delivery date, this shall be reasonably postponed, should the customer fail to provide the documents and permits to be obtained by it on time, should approvals not be issued on time, should all technical queries not be clarified in full on time and should the agreed downpayment not be received by SEW (on in case of a foreign transaction, should the entire payment sum not be received by SEW in full). Compliance with the delivery time is subject to the timely and proper fulfillment of the other obligations incumbent on the customer.
- (3) The delivery time shall be deemed to have been complied with if the goods leave the factory prior to its expiry or if SEW has provided notification of readiness for collection or readiness for dispatch. Compliance with the delivery time is subject to proper (in particular) timely self-delivery on the part of SEW, unless the seller is responsible for the reason for the improper self-delivery. In case of improper self-delivery, SEW is entitled to rescind the contract. SEW shall inform the customer immediately if it wishes to claim its right of rescission and shall return any downpayments that have been made by the customer.
- (4) The occurrence of delivery delay on the part of SEW shall be determined in accordance with the statutory regulations. The customer may only rescind the contract due to delivery delays within the framework of the statutory provisions if SEW is responsible for the delays. Should the customer enter acceptance default, SEW shall be entitled to request reimbursement of the losses incurred as a result, as well as compensation for any additional expenses, unless the customer is not responsible for the non-acceptance of the products. Furthermore, SEW can request the reimbursement of losses incurred by SEW as a result of the customer failing to comply with its co-operation obligations, unless the customer is not responsible for such a breach. Further claims remain reserved.
- (3) The customer shall be obliged to handle the goods carefully for the duration of the reservation of ownership; in particular, the customer is obliged to sufficiently insure these to the replacement value at its own expense against fire and water damage and theft. Following a request by SEW, the customer must provide proof that the insurance has been taken out. The customer is hereby assigning to SEW all compensation claims under the said insurance policy. SEW hereby accepts the assignment. If the insurance policy does not permit such an assignment, the customer shall instruct the insurance company to only make any payments to SEW. Further claims of SEW shall remain unaffected.
- (4) In case of attachments, seizures and or third-party attacks against the goods subject to reservation of ownership, the customer must inform SEW immediately and provide all necessary information, notify the third-party of the ownership rights of SEW and co-operate in the measures to protect the goods subject to reservation of ownership.
- (5) The customer is entitled to resell the goods subject to reservation of ownership in accordance with proper business practices. The customer is not permitted to pledge the goods subject to reservation of ownership, provide these as security or otherwise dispose of them. Should the customer sell the goods subject to reservation of ownership, regardless of their condition, the customer hereby assigns to SEW the claims against its consumer which arise from the sale, together with all ancillary rights. SEW hereby accepts the assignment. Should such an assignment not be permitted, the customer shall instruct the consumer to only make any payments to SEW. In a revocable manner, the customer is authorized to collect the claims assigned to SEW for SEW in trust in its own name. The sums collected must be paid to SEW immediately.
- (6) The authorization to resell the goods and collect the claims can be revoked, should the customer be in payment default, should it suspend its payments or if the opening of insolvency proceedings or comparable proceedings for the settlement of debts in relation to the assets of the customer is applied for by the customer or the justified application of a third party for the opening of insolvency proceedings or comparable proceedings for the settlement of debts in relation to the assets of the customer is rejected due to lack of assets. In case of a blanket assignment by the customer, the claims assigned to SEW shall be expressly excluded. Following a request by SEW, the customer shall then be obliged to disclose the assignment to its consumers, unless SEW informs the consumers of the customer itself, and must provide SEW with the necessary information in order to claim its rights against the consumers and must hand over the relevant documents.

## § 5 Transfer of risk, acceptance

- (1) Unless otherwise agreed in writing, the risk will be transferred to the customer at the time of handover to the shipping company or carrier, however at the latest at the time of leaving the factory or warehouse. Should it be intended for acceptance to take place (see § 5 (3) of these terms and conditions of sale and delivery), this shall be decisive in relation to the transfer of risk.
- (2) Should shipping or acceptance be delayed as a result of circumstances for which SEW is not responsible, the risk shall be transferred to the customer at the time of notification of readiness for dispatch or readiness for acceptance.
- (3) Should SEW and the customer have agreed that acceptance will take place, the customer shall be obliged to carry out acceptance. The acceptance must take place immediately on the acceptance date. Should no acceptance date have been agreed, the acceptance must take place immediately following the notification of readiness for acceptance issued by SEW. The customer may not refuse acceptance due to the presence of minor defects.

## § 6 Reservation of ownership

- (1) SEW reserves ownership of the delivered goods until full payment of the purchase price.
- (2) In case of behavior on the part of the customer that is in breach of contract, in particular in case of payment default, SEW is entitled to rescind the contract following the expiry of a reasonable period of grace set by SEW, unless such a period of grace is dispensable. The customer must grant SEW or its representatives access to the goods subject to reservation of ownership immediately and must surrender these. Following a timely notification, SEW can otherwise dispose of the goods subject to reservation of ownership in order to satisfy its due claims against the customer.
- (7) Any processing or modification of the delivered goods shall always be carried out for SEW. The expectant right of the customer in relation to the goods subject to reservation of ownership shall continue to apply to the processed or modified item. Should the goods be processed or modified with other goods that do not belong to SEW, SEW shall acquire co-ownership of the new item in the ratio of the value of the delivered goods to the other processed or modified goods at the time of processing or modification. The same shall apply if the goods are combined or mixed with other goods that do not belong to SEW in such a way that SEW loses its full ownership. The customer shall store the new items for SEW. Otherwise, the same shall apply to the item created by means of processing, modification, connection or mixing that applies to the goods delivered under reservation of ownership.
- (8) Following a request by the customer, SEW shall be obliged to release the securities due to SEW to the extent that their realizable value exceeds the claims to be secured by more than 10%, taking customary bank value discounts into account. The choice of securities to be released is the responsibility of SEW.
- (9) In case of deliveries to other legal systems in which this reservation of ownership provision does not have the same security effect as in the Federal Republic of Germany, the customer is hereby granting SEW a corresponding security interest. Should additional measures be necessary for this purpose, the customer shall carry out all actions in order to immediately grant SEW such a security interest. The customer shall co-operate in all measures that are necessary and conducive to the effectiveness and enforceability of such security interests.

## § 7 Defect claims

- (1) The defect rights of the customer are subject to it inspecting the delivered goods at the time of delivery and, where reasonable, also by means of test processing or test use. The defect rights of the customer are also subject to it having notified SEW of immediately of any obvious defects immediately in writing, at the latest two weeks after delivery of the goods. Hidden defects must be notified to SEW in writing immediately after their discovery. The customer must describe the defects in writing at the time of notification to SEW. In addition, during the planning, construction, assembly, connection, installation, commissioning, operation and maintenance of the goods, the customer must comply with the specifications, notes, guidelines and conditions in the technical notes, assembly, operating and use instructions and other documents relating to the individual goods. In particular, the customer must carry out maintenance properly and provide proof of such and must use the recommended components. Defect claims as a result of a breach of the above obligation are excluded.
- (2) In case of the presence of defects, the customer has a claim to supplementary performance. SEW can choose to fulfill this either by correcting the defect or by delivering a defect-free item or service. In order for supplementary performance to take place, the customer must provide SEW with a reasonable deadline and the necessary opportunity. Goods which are the subject of a complaint shall only be returned following a request by SEW and, where necessary, in good packaging and enclosing a packing slip stating the order number. Replaced goods shall become the property of SEW.
- (3) In case of supplementary performance, SEW shall be obliged to bear all expenses that are necessary for this purpose, in particular transportation, travel, work and material costs, provided that these are not increased due to the goods having been taken to a location other than the place of performance, unless doing so corresponds to the intended use. The above only applies if a defect is actually present. Should it become apparent that no defect is present, SEW can request reimbursement from the customer of the costs incurred due to the unjustified defect correction request (in particular transportation, travel, work and material costs), unless the customer is not responsible for the unjustified defect correction request.
- (4) In the event that supplementary performance fails, the customer shall be entitled to reduce the purchase price or to rescind the contract. The same applies if SEW is not prepared to carry out supplementary performance or is not in the position to do so, if supplementary performance is not reasonable for the customer or if the supplementary performance is postponed beyond reasonable deadlines for reasons for which SEW is responsible.
- (5) Defects which occur due to one of the reasons below shall not give rise to any defect claims:  
 Unsuitable or improper use following the transfer of risk, in particular overloading, improper handling, assembly, putting into operation, use or storage by the customer or third-parties, natural wear and tear, incorrect or negligent handling, unsuitable operating materials or exchange materials, improper construction work, non-compliance with the operating instructions, unsuitable use conditions, in particular unsuitable chemical, physical, electro-magnetic, electro-chemical or electrical influences, weather or natural influences, environmental temperatures that are too high or too low and similar reasons.
- (6) The limitation period for defect claims is two years from the start of the statutory limitation period.
- (7) The statutory limitation period in case of recourse claims of the customer against SEW due to a defect in relation to goods that have been resold (supplier's recourse) shall remain unaffected. The limitation period for the said recourse claims shall not take effect until two months at the earliest after the time when the customer has fulfilled the claims of its buyer. This suspension of the limitation period will end at the latest five years after time when SEW delivered the goods to the customer.

## § 8 Liability for damages and claims to the reimbursement of expenses

- (1) SEW shall incur unlimited liability for losses due to intentional or grossly negligent breaches of obligations, for losses due to a breach of a guarantee and for losses due to injury to life, body or health. The same shall apply if SEW has assumed a procurement risk.
- (2) In case of simple negligence, SEW shall only incur liability if essential obligations are breached which arise from the nature of the contract and which are essential for the attainment of the contractual purpose. In case of a breach of such obligations, delay and impossibility, the liability of SEW shall be limited to losses which can be typically expected to occur within the framework of this contract. Any mandatory statutory liability for product defects shall remain unaffected.
- (3) Should liability on the part of SEW be excluded or limited, this also applies to the personal liability of the employees, workers, colleagues, representatives and vicarious agents of SEW.

## § 9 Force majeure

- (1) Should SEW be prevented from fulfilling its contractual obligations, in particular the delivery of goods, due to force majeure, SEW shall be released from its performance obligation for the duration of the hindrance (plus a reasonable start up period) without being obliged to pay damages to the customer. The same applies should the performance of its obligations be made unreasonably more difficult or temporarily impossible for SEW due to unforeseeable circumstances for which SEW is not responsible, in particular labor disputes, measures of the authorities, lack of energy, pandemics, delivery problems on the part of its suppliers or significant operational disruptions. The same applies if the above circumstances occur on the part of a supplier. Should SEW be released from its delivery obligation, SEW shall return any downpayments made by the customer.
- (2) Following the expiry of a reasonable deadline, SEW is entitled to rescind the contract, should such a difficulty last for more than four months and should SEW no longer have an interest in fulfillment of the contract due to the hindrance. Following a request by the customer, SEW will declare after the expiry of the deadline whether it intends to claim its right of rescission or whether it will deliver the goods within a reasonable deadline.

## § 10 Export control

- (1) The customer and SEW are in agreement that the delivery and/or service (or parts thereof), in particular the export and transit of goods, the transfer of technology, commercial and brokerage transactions, technical support or the provision of financial resources may be subject to German or European export control regulations, US re-export laws or other applicable national export control regulations (for example export control regulations relating to goods, persons, countries or purpose of use) and financial sanctions – hereinafter referred to as export restrictions.
- (2) The customer and SEW are obliged to comply with all applicable export regulations. In particular, these include any regulations of the destination country. The customer and SEW are in agreement that deliveries and/or services that are subject to applicable export restrictions may be prohibited or subject to a permit. Should an applicable export restriction permanently prevent SEW or the customer from fulfilling the contract, both parties have the right to cancel the delivery and/or service concerned or to terminate the contract in full or in part.
- (3) Delays due to approval procedures on the part of competent export control authorities will extend the contractual fulfillment times accordingly; this applies to the delivery deadlines in particular.
- (4) Damages claims due to the authorities rejecting an application relating to export restrictions or due to a permit being issued late are excluded, unless this relates to a loss due to injury to life, body or health or if the loss was caused intentionally or gross negligently by one of the parties.

- (5) The contracting parties shall be obliged to co-operate in any approval proceedings. In particular, they shall immediately provide the other party with the appropriate information/documents on request (for example end use declarations) which are required in the course of the application process.

#### **§ 11 Confidentiality**

- (1) For a period of five years from the time of delivery, the parties shall be obliged to keep secret all business secrets of the other party that are made accessible to them. These must also be protected by means of suitable and reasonable measures and, unless required for the business relationship, these must not be recorded, passed on to third-parties, used or exploited. In particular, the parties shall ensure that the business secrets of the other party are only made accessible to those workers and other employees who require these in order to perform the business relationship and only then to the extent that is required. Items that contain business secrets are also subject to this confidentiality obligation. In particular, the receiving party is prohibited from obtaining knowledge of the contained business secrets by reverse engineering the goods or reverse engineering an object. Business secrets are defined as all information which is designated as confidential or secret or which is considered to represent business secrets according to other circumstances, in particular technical information (for example drawings, product and development descriptions, methods, procedures, formulas, technology and inventions), as well as commercial information (for example price and financial data and procurement sources).
- (2) The confidentiality obligation shall not apply if it can be proven that the business secret was already known to the receiving party prior to the commencement of the contractual relationship without a confidentiality obligation or was generally known or generally accessible before the start of the contractual relationship or becomes generally known or accessible without fault being present on the part of the receiving party. The burden of proof shall be borne by the receiving party.

#### **§ 12 Data protection and granting of rights of use and exploitation**

- (1) The parties are obliged to comply with the applicable regulations under data protection laws. The disclosure of contact data to third-parties is only permitted within the framework of the applicable provisions.
- (2) In order to provide agreed services (for example DriveRadar®, IoT Suite) or to evaluate which services SEW can provide to the customer, it is necessary for SEW to use data. The parties are in agreement that the data will be available to SEW for maintenance and improving or further developing the services, also using artificial intelligence. In this context, SEW is expressly permitted to use and exploit or have the data used and exploited worldwide without any time limit, in an irrevocable and non-exclusive manner, free-of-charge, with permission to issue sub-licenses and with capability of assignment without any restriction. SEW may make the data available to other companies of the SEW Group and/or subcontractors of SEW only to the extent that is necessary for the services or the maintenance, improvement, further development or evaluation of these.

#### **§ 13 Place of performance, place of jurisdiction and applicable law**

- (1) Unless otherwise stated in the order confirmation, the place of performance for deliveries and supplementary performance is the place of business of SEW in Bruchsal, Germany.
- (2) The exclusive place of jurisdiction for all direct or indirect disputes in connection with the contractual relationship is Bruchsal, Germany, should the customer be a merchant in accordance with the German Commercial Code (Handelsgesetzbuch), a legal person under public law or a public law special fund.
- (3) German law shall apply exclusively, also in case that deliveries and services are rendered to abroad. The United Nations Convention governing the International Sale of Goods (CISG) is hereby being omitted.

Bruchsal, Germany, February 2022