

SEW-Eurodrive, Inc.

Terms and Conditions for Purchase

- 1. Applicability and Scope:** This Purchase Order is an offer by SEW-Eurodrive, Inc. ("Buyer") for the purchase of the goods or services specified on the face of this Order ("Goods" or "Services") from the party to whom the Order is addressed ("Seller") in accordance with and subject to these Terms and Conditions ("Terms"). These Terms shall be construed together with any terms and conditions on the face of this Order and any other documents or items included by reference and shall constitute the entire agreement of the parties with respect to the Order and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral, with respect to the subject matter of the Order. The Order expressly limits Seller's acceptance to these Terms and the terms of the Order. These Terms prevail over any terms or conditions contained in any other documentation or as provided by Seller and specifically exclude any of Seller's terms or general terms and conditions. Buyer expressly objects to Seller including or proposing any differing or additional terms and refuses to proceed under any such terms. Where appropriate, e.g. where Seller has provided a Quotation or other document which can be construed as an offer to contract, this Order with these Terms expressly rejects that offer and shall serve as Buyer's counteroffer.
- 2. Acceptance:** This Order is not binding on Buyer unless and until Seller accepts the Order by written confirmation. Seller shall notify Buyer when it begins performing pursuant to an Order. Buyer may withdraw the Order at any time before it is accepted by Seller. This Order and Buyer's offer to purchase shall expire and lapse within thirty (30) days from sending unless Buyer extends its duration.
- 3. Price and Payment Terms:** The price of the Goods or Services is the price stated in the Order. If no price is included, the price shall be the price set out in Seller's published price list in force on the date of the Order, or shall be Seller's lowest price for like services or goods in like quantities offered or sold to any other buyer. In addition, if Seller offers or sells the Goods or Services to any other buyer at a lower price, Seller must apply that price to all Goods or Services under this Order. Seller shall issue an invoice to Buyer on or any time after the completion or delivery. Unless otherwise agreed to in writing by the parties, Buyer shall pay all properly invoiced amounts due to Seller within net 30 days after Buyer's receipt of invoice, except for any amounts disputed in good faith by Buyer or subject to Buyer's right of set-off (which it hereby reserves) for any amount owing to it by Seller.
- 4. Delivery; Title; Risk of Loss:** All Goods shall be delivered to the address or place specified in the Order during Buyer's normal business hours or as otherwise instructed by Buyer. Seller shall deliver the Goods on the date(s) and in the quantity or quantities specified in the Order. If no delivery date is specified, Seller shall deliver Goods within a commercially reasonable expedient number of days from Seller's receipt of the Order. Timely delivery of the Goods is of the essence and Buyer may, without penalty or liability and in addition to any other remedies available to Buyer in these Terms or at law, terminate the Order if Seller fails to deliver in a timely basis. Buyer may reject all or any Goods delivered in excess of the Order. Any such rejected Goods shall be returned to Seller at Seller's risk and expense. If Buyer does not reject the Goods and instead accepts the delivery of the excess Goods (or reduced quantity Goods, whichever is applicable), the price shall be adjusted accordingly on a pro-rata basis. Unless otherwise stated on the face of the Order, Delivery shall be made FOB Destination to Buyer's facility/ Freight Collect. Title of the Goods passes to Buyer upon delivery of the Goods to the stated address or place of delivery.

For Orders for Services, "Deliverables" means all documents, work product and other materials that are delivered to Buyer hereunder or prepared by or on behalf of Seller in the course of performing the Services, including any items identified as such in a Statement of Work. Except as expressly agreed by Buyer, Buyer is, and shall be, the sole and exclusive owner of all right, title and interest in and to the Deliverables, including all Intellectual Property Rights therein. Seller agrees, and will cause its personnel to agree, that with respect to any Deliverables that may qualify as "work made for hire" as defined in 17 U.S.C. §101, such Deliverables are hereby deemed a "work made for hire" for Buyer.
- 5. Inspection:** Buyer has the right to inspect the Goods or Services at or within a reasonable time after performance or delivery. Buyer, at its option, may inspect all or a sample of the Goods, and may reject all or any portion of the Goods if it determines the Goods are defective or otherwise non-conforming. Buyer may reject Services or Deliverables therefrom that are non-conforming and either (a) rescind the Order or (b) demand reperformance. If Buyer rejects any portion of the Goods, Buyer has the right, upon written notice to Seller, to: (a) rescind the Order entirely and make the Goods available to Seller to recoup at Seller's own expense; (b) accept the Goods at a reasonably reduced price; or (c) reject the Goods and require replacement of the rejected Goods. If Buyer requires replacement Goods, Seller shall at its own expense promptly replace the defective or non-conforming Goods and pay for all related expenses, including transportation charges, for the return of the defective goods and the delivery of replacement Goods. If Seller fails to timely deliver replacement Goods, Buyer may replace them with goods from a third party and charge Seller for the cost thereof and terminate the Order. Furthermore, any inspection or other action by Buyer under this Section shall in no way reduce or otherwise affect Seller's obligations under the Order, and Buyer shall have the right to conduct further inspections after Seller has carried out its remedial actions.
- 6. Indemnification:** Seller shall at its expense defend, indemnify, and hold harmless Buyer and Buyer's affiliates, successors or assigns and their respective directors, officers, shareholders, and employees and Buyer's customers against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost or expense, including reasonable attorney and professional fees and costs, and the cost of enforcing any right to indemnification in connection with the products purchased from Seller or Seller's negligence, willful misconduct or breach of these Terms. This right of Indemnification shall extend to any claims or claims for losses against Buyer arising out of or in connection with any claim that Buyer's or Indemnitee's use or possession of Goods or Deliverables from Seller infringes or misappropriates the patent, copyright, trade secret or other intellectual property right of any third party. Seller shall not enter into any settlement pertaining to or affecting this Section without Buyer's or Indemnitee's prior consent. Buyer may request, and Seller shall provide, a certificate of insurance from Seller's insurer evidencing sufficient insurance coverage for all insurable risks indicated in this Section and Order.
- 7. Compliance with Laws:** Seller warrants and certifies that it is in compliance with and shall continue to comply with all applicable laws, regulations, and ordinances. Seller has and shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under the Order. In the event Seller has imported its Goods for sale, Seller has complied with and will continue to comply with all export and import laws of all countries involved in the sale of Goods under this Order. Seller assumes all responsibility for shipment of Goods requiring any government import clearance. Furthermore, Seller warrants and certifies that it is in compliance with and does not violate any of the provisions of Buyer's Corporate Social Responsibility Program, available at <http://v5.ptpilot.com/Social.pdf>. Seller shall, with or without request from Buyer, fully cooperate with and provide evidence supporting (e.g., CMRTs) any of the above warranties and certifications.
- 8. Warranties:** For sales of goods, Seller warrants to Buyer that the Goods shall be (a) merchantable; (b) fit for their intended purpose and operate as intended; (c) be free and clear of all liens, security interests, or other encumbrances; (d) not infringe or misappropriate any third party's patent or other intellectual property rights; and for a period of 24 months after delivery, or such longer time as agreed to in advance by the parties in conformance with Seller's typical practice for like goods, be (e) free from any defects in workmanship, material, and design; and (f) conform to the applicable standards and specifications required by Buyer. For services, Seller warrants that it shall perform the Services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with best industry standards for similar services and shall devote adequate resources to meet its obligations under these Terms and the Order. These warranties are cumulative and in addition to any other warranty provided by law or equity. Nothing in this Section shall limit Seller's liability under any other Section of these Terms or this Order, or for Seller's fraud, personal injury or death caused by its negligence or willful conduct.
- 9. Termination; Default; Insolvency:** Buyer may upon written notice terminate any Order at any time with or without cause. In the event of termination by Buyer for convenience, Buyer will reimburse Seller for reasonable expenses for preparing and/or shipping the Goods or Services to the extent such expenses have been actually accrued. Buyer may immediately terminate any Order for cause if Seller violates or defaults on any provision of these Terms or any other agreement between the parties and in such event shall bear no responsibility or obligations to Seller related to the Order. Moreover, if Seller becomes insolvent, files a petition for bankruptcy or has commenced against it proceedings for bankruptcy, receivership, reorganization or assignment for the benefit of creditors, Buyer may terminate this Order upon written notice to Seller and shall have no obligations or liability outside payment for Goods received and accepted prior to termination.
- 10. Intellectual Property, Confidential Information:** All non-public, confidential, proprietary, or trade secret information of Buyer, including without limitation specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates which may be disclosed by Buyer to Seller (whether written or orally) or otherwise accessed by Seller (whether written, electronic, or otherwise) in connection with the Order is confidential. This applies whether such information is marked, designated, or otherwise identified as "confidential." Such information shall be used solely for the use of performing the Order and may not be disclosed or copied unless authorized in writing by Buyer. Upon Buyer's request, Seller shall promptly return all documents and other materials received from Buyer. Buyer shall be entitled to injunctive relief for any violation of this Section. This Section shall not apply to information that is: (a) in the public domain; (b) known to the Seller at the time of disclosure; or (c) rightfully obtained by the Seller on a non-confidential basis from a third party.
- 11. Force Majeure:** Neither party shall be liable to the other for any delay for failure in performing its obligations under the Order to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party, without such party's fault of negligence, and which by its nature could not have been foreseen by such party or was unavoidable ("Force Majeure"). Seller's economic hardship or changes in market conditions are not Force Majeure under this Order. Seller shall use all diligent efforts to end the failure or delay of it performance and ensure that the effects of any Force Majeure event(s) are minimalized and that performance is timely resumed. If Force Majeure prevents Seller from performing for more than thirty (30) days beyond the date for delivery, Buyer may terminate the Order immediately upon notice to Seller.
- 12. Miscellaneous:** All matters arising out of or related to this Order are governed by and construed with the laws of South Carolina without effect to any choice or conflict of law rules or provisions, expressly excluding the CISG. The parties hereby submit to the sole and exclusive jurisdiction of the state or federal courts of South Carolina for all disputes, actions, or proceedings arising out of or related to this Agreement. All Buyer's remedies Seller shall not assign any of its rights or delegate any of its obligations under this Order without the express prior written consent of Buyer, and all purported assignments or delegations in violation of this Order shall be null and void. No amendment or waiver by Buyer of any provision of this Order is effective unless set forth in writing and signed by Buyer. No failure to exercise, or delay in exercising, any provision or right granted thereby of this Order shall be construed as waiver thereof. If any term or provision of this Order is found invalid, illegal, or unenforceable in any relevant jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Order; nor shall it strike, invalidate, or render unenforceable or ineffectual such term or provision in any other jurisdiction. The terms and provisions of this Order shall bind and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors, and permitted assigns. However, nothing herein, express or implied, is intended or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of these Terms. Provisions of these Terms which by their nature should apply beyond the term of this Order or transaction will remain in force after any termination or expiration thereof; this includes, by way of example, the following terms or provisions: compliance with laws, confidential information, intellectual property, warranty, waiver, governing law, submission to jurisdiction, assignability, and survival.