

SERVICE TERMS AND CONDITIONS

Article §1 General terms

(1) These terms and conditions are applicable to services provided by SEW such as repairs, conversions, overhauls, start-up, programming services, maintenance and repair work, retrofitting work on machines and systems, replacement of units (provided these are not already part of services to be provided under a purchase agreement between SEW and the Customer). Services shall be provided exclusively on the basis of the applicable order confirmation and any special agreements made in writing in addition to the present conditions. Any other terms and conditions, particularly terms and conditions of the Customer, shall not apply unless explicit stipulation to the contrary in writing by SEW.

(2) Offers from SEW are subject to change. An agreement comes into effect with the order confirmation by SEW in writing.

(3) If the item for which service is rendered (hereinafter referred to as "service item") is not supplied by SEW, the Customer must provide information about any existing intellectual property rights in respect of the service item. The Customer shall indemnify and hold harmless SEW from any such third-party claims vis-à-vis the intellectual property rights.

(4) If any country-specific operating license is affected by the service to be provided by SEW, particularly as a result of changes, extensions, updates etc. to a system or machine, the Customer shall take the required measures to re-procure the respective operating license or have such measures be taken. The Customer shall be responsible for such measures and shall bear all associated costs.

(5) If individual components or equipment in machines or systems that are labelled CE in accordance with Directive 2006/42/EC on machinery are replaced and/or modified, all safety-related requirements and conditions, as implemented by Royal Decree of 12 August 2008, may need to be checked for continued compliance. The Customer shall be responsible for the check and for restoration of conformity if need be. SEW can assume this responsibility only if an explicit agreement is concluded in writing specifically laying down the responsibilities to be assumed by SEW.

(6) Unless agreed to the contrary in writing, SEW shall not provide any services in the area of functional safety. It shall be incumbent on the Customer to observe and comply with standards and regulations in the area of functional safety relating to the service item.

Article §2 Services that cannot be performed

(1) If services cannot be performed for reasons for which SEW is not responsible, the Customer shall be billed for the work involved in submitting a cost estimate as well as other time and work required (time required for troubleshooting as well as hours worked). These reasons include the following in particular:

- the defect that was reported cannot be found during inspection;
- spare parts are not available;
- the Customer negligently missed a scheduled deadline;
- the agreement is terminated while the services are being performed.

(2) In such cases, the service item must be restored to its original condition only upon explicit request from the Customer against reimbursement of costs except if the work performed was not required.

Article §3 Cost information, cost estimates

(1) Unless stipulated otherwise, services will be billed on a time and materials basis. The version of SEW's price lists in effect at the time shall apply.

(2) To the extent possible, the Customer will be provided an anticipated price for the service. Otherwise, the

Customer may set cost limits. If the service cannot be provided at these costs, SEW shall inform the Customer immediately if actual costs exceed anticipated costs by more than 15%.

Article §4 Price and payment

(1) SEW is entitled to demand reasonable advance payment at the time the agreement is concluded.

(2) Statutory VAT will be billed to the Customer additionally.

(3) All invoices are payable 30 days after the invoice date. Payment needs to be made to the registered office of SEW in Heverlee (Belgium). From their due date all unpaid invoices will be increased, by law and without formal notice, by the base interest rate with an additional 7 percentage points and rounded-up to the nearest half a percentage point (art. 5 Act 02/08/2002). In addition, all unpaid invoices will be increased, by law and without formal notice, by a fixed interest rate for compensation set at 10% of the outstanding amount on the invoice, except when the actual collection charges – including the costs for legal aid – are higher (art. 6 Act 02/08/2002).

(4) If SEW learns of any significant deterioration in the Customer's financial circumstances after sending an order confirmation, its receivables shall be due immediately. In addition, SEW is entitled to provide outstanding deliveries and services, even at variance from the order confirmation, only against advance payment, and to withdraw from the agreement after a reasonable grace period unless the Customer provides security. The same applies in case of failure to comply with the terms of payment, even if such failure involves other orders arising out of the mutual business relationship.

(5) The Customer shall be entitled to offset claims only if the Customer's counterclaims are undisputed by SEW or became *res judicata*. The Customer may exercise a right of retention to the extent its counterclaim is based on the same contractual relationship.

Article §5 Customer's participation and technical assistance, duties to supply information

(1) The Customer must support SEW in the provision of services, at its cost.

(2) The Customer must provide SEW all information and documents required to duly provide services in due time before the start of work. It must communicate the need for any specific safety checks or requirements (e.g. airport, nuclear power plant, fear of heights) duly in advance. If the services are provided overseas, the Customer must provide information about the travel formalities required (visa, invitations etc.). SEW reserves the right to withdraw from the agreement if any official travel warnings are issued.

(3) The Customer must inform SEW of all relevant interfaces (hardware and software) that SEW must take into account during the provision of the services. This is especially the case for programming services based on the Customer's data processing systems.

(4) If the service is provided at a location other than SEW's plant, the Customer must take necessary measures to protect persons and objects at the place of performance of the service. In its written order and before start of work on-site, it must also inform SEW personnel of any special existing safety regulations, provided these are of importance for the personnel. It must inform SEW of any violations of safety regulations by SEW personnel. In case of serious violations, it may in conjunction with SEW's contact person deny the offender access to the place of performance of the service.

(5) If the service is provided at a location outside SEW's plant, the Customer is obligated to provide technical assistance at its cost, especially by:

- a) providing as much suitable auxiliary staff as

necessary for the period required; the staff must follow instructions from SEW personnel. SEW assumes no liability for such staff. If such staff causes defects or damage as a result of instructions from SEW personnel, articles §§ 10 and 11 shall apply.

b) performance of all required construction, ballast and scaffolding works, including the procurement of required building materials.

c) providing required equipment and heavy-duty tools as well as required articles and materials of daily use.

d) providing heating, lighting, operating force and water, including the required connections.

e) providing the necessary dry areas with locks for the storage of tools belonging to SEW personnel.

f) protecting the place of performance of the service as well as the materials used from harmful effects of any kind, keeping the place of performance clean.

g) providing suitable, burglar-proof day rooms and working spaces (with heating, lighting, washrooms, sanitary facilities) and first aid for SEW personnel.

h) providing materials and doing all else that is required for the regulation of the service item and the performance of any tests specified in the agreement.

(6) The Customer is not authorized to give instructions to SEW personnel, SEW personnel will not become part of the Customer's or end user's operations.

(7) The Customer's technical assistance must warrant that the service can begin immediately after SEW personnel arrives and that the service can be performed without delay until acceptance by the Customer. SEW will provide the Customer any special plans or instructions required from it in due time.

(8) If the Customer does not fulfil its obligations, SEW is entitled but not obligated, after setting a grace period, to perform those acts that the Customer should have performed in the Customer's stead and at its cost. Notwithstanding the foregoing, SEW's statutory rights and claims will remain unaffected.

(9) If the service consists of replacing units, it is incumbent on the Customer to ensure that the replacement unit supplied by SEW is functionally compatible with the machine or system in which the unit to be swapped out was housed. SEW shall merely inform the Customer of the technical characteristics of the replacement unit and will not assess its full compatibility across all conceivable technical characteristics.

(10) If the Customer cannot comply with the above duties to participate on its own, because the service was not provided at its site but at the location of a third-party (such as the end-user), the Customer must oblige to the third-party to provide the support services described above.

Article §6 Transport and insurance when providing the service at the SEW plant

(1) Unless stipulated otherwise in writing, any transportation of the service item to and from the plant, including packing and loading if required, at the request of the Customer will be billed to the Customer. Otherwise, the Customer may deliver the service item to SEW at its cost and collect the item from SEW after the service is completed.

(2) The Customer shall bear the transportation risk.

(3) At the Customer's request and at the expenses of the Customer, insurance coverage will be taken out for transportation to and (if needed) from SEW plant to cover insurable transportation risks such as theft, breakage, fire.

(4) There will be no insurance coverage during the period the service is provided at the SEW plant. The Customer must ensure the continuance of existing insurance coverage for the service item, such as fire insurance, mains water insurance, storm insurance and machine breakage insurance. It is only at the explicit request of and at the Customer's cost that insurance coverage for these risks

can be arranged.

(5) If the Customer is in delay in taking delivery of the service item, SEW is entitled to charge the Customer for storage at its plant. At SEW's discretion, the service item may also be stored elsewhere. The costs and risk of storage shall be borne by the Customer.

Article §7 Period of performance, delayed performance

(1) Service schedules are based on estimates and are therefore not binding.

(2) The Customer can demand that the service be performed within a binding period of time, which must be designated as binding, only if the scope of the work has been precisely defined.

(3) The binding period shall be deemed to be have been complied with if the service item is ready for delivery to the Customer, or for testing if testing is stipulated under the agreement, at the time the period expires.

(4) If additional or extended orders are subsequently placed, or if there is additional work required, the period shall be extended accordingly.

(5) If there is a delay in providing services due to measures such as industrial disputes, especially strikes and lockouts, or due to circumstances that cannot be attributed to SEW, the deadline will be appropriately extended provided such obstacles have a demonstrably significant effect on the provision of the service.

(6) If the Customer accrues losses as a result of delay by SEW, the Customer shall be entitled to claim liquidated damages for the delay. This shall be 0.52% for each full week of delay, to an overall maximum of 52% of the service price for that part of the service item that could not be used in time as a result of the delay.

Article §8 Acceptance

(1) The Customer is obligated to accept the services as soon as it is notified of their completion and any contractually stipulated testing of the service item is complete. If the service has not been performed as stipulated in the agreement, SEW must remedy the defect. This does not apply if the defect is irrelevant to the Customer's interests or is due to a situation attributable to the Customer.

In case of minor defect, the Customer cannot refuse to accept the work performed.

(2) If acceptance is delayed and SEW is not responsible for the delay, acceptance will be deemed to have taken place two weeks after the Customer has been notified that the services have been successfully completed.

(3) SEW's liability for visible defects shall be excluded once acceptance is complete, provided the Customer has not reserved the right to assert a claim for a specific defect.

Article §9 Warranty

(1) In the case of work performances (services), the Customer shall be entitled to claim subsequent performance if there are defects. SEW will have the option to defect or re-perform the service that was defective. The Customer shall grant SEW the time and opportunity to effect subsequent performance. If inappropriate changes are made or maintenance is performed by the Customer or a third party without prior approval from SEW, SEW shall no longer be liable for any consequences. The burden of proof for the appropriateness of the changes or maintenance work shall lie with the Customer. The Customer shall have the right to remedy the defect itself or appoint a third party to perform any necessary repairs in urgent cases only. Such defects must represent a threat to operational safety or cause unreasonably excessive damages, and the Customer is obligated to inform SEW immediately of the same. Any expenses associated with such repairs can be submitted to SEW for reimbursement. Goods or parts which the Customer alleges are defective shall be returned to SEW only when SEW requests the Customer to do so and, if necessary, properly packaged with a packing slip indicating the order number.

(2) The Customer must promptly inform SEW of any defects detected.

(3) In the event defects are to be remedied, SEW agrees to bear all expenses incurred in the remedy of the defect, particularly transportation, freight, labor and material costs, as long as such costs do not increase due to the fact that the goods or parts had been brought to a location other than the place of performance of service, unless the transport was in accordance with the intend use.

(4) In the event subsequent performance proves unsuccessful, the Customer shall be entitled to reduce the remuneration agreed upon or to withdraw from the agreement.

(5) Any damages caused for 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, without being exhaustive: inappropriate or improper use after passing of risk, particularly excessive use, incorrect assembly or start-up 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, defects in construction work, non-observance 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, subsequent alterations of the service provided.

(6) If the service consists of creating or modifying software, the following provisions shall also apply:

a) Only deviations from the agreed characteristics that are proven and reproducible by the Customer shall be considered software defects. It shall not be considered a defect if the deviation does not occur in the last version of the software provided to the Customer and it is reasonable for the Customer to use such version.

b) There shall be no warranty claims for defects or damages that appear or arise due to special external influences that have not been presumed under the agreement.

c) There shall be no warranty claims in case of changes to the software by the Customer or by third parties and the consequences thereof.

d) There shall be no warranty claims if the software provided or created is not compatible with the data processing environment used by the Customer.

e) A defect shall be remedied either at the Customer's location or at the SEW plant, at SEW's option. If SEW chooses to remedy the defect at the Customer's location, the Customer must provide hardware and software and ensure other operating conditions (including computing time required) with appropriate operating personnel. The Customer must provide SEW all required documentation and information that is in its possession for remedying the defect.

f) In creating the software as stipulated in the agreement, SEW merely implements the Customer's functional specifications. SEW does not therefore assume any liability if the use of software created by it violates any patents or utility models of a third party. The Customer bears the risk that the object operated by using the software or that any process using the software violates any patents or utility models of a third party. SEW does, however, warrant that the software itself is free of any third-party copyrights.

g) The Customer is responsible for proper backups of its data.

h) The Customer is responsible for testing the software created and/or modified by SEW thoroughly before moving it into production.

Article §10 Liability for damages and reimbursement of expenses

(1) Unless any mandatory statutory regulations provide for a more strict liability, SEW shall only be liable for dam-

ages if it is proven that SEW acted with willful intent or gross negligence. Liability for other or slight negligence, compensation for consequential damage and loss of property, savings not earned, loss of interest and for damages arising from third-party claims shall be excluded

(2) SEW's liability shall be limited to property damage and pecuniary loss deemed typical within the scope of this agreement and which can be reasonably foreseen. SEW can never be held liable for damages arising from production downtime, lost sales and lost business opportunities.

(3) This limitation of liability also applies to services rendered by subcontractors of SEW.

Article §11 Rights of use to the software

If the service consists of the creation of software, the Customer shall receive the worldwide, non-exclusive, unlimited, irrevocable, unrestricted and transferrable right of use to the same. SEW reserves the right to continue to use, or to grant additional rights of use to, any of the services it provided as part of the software creation process for its own business purposes, including services to third parties.

Article §12 Payment of damages by the Customer

For services provided outside SEW's plant, if equipment or tools provided by SEW are damaged or lost and SEW is not responsible, the Customer is obligated to pay for this damage. Damages that can be traced to normal wear and tear shall be excluded.

Article §13 Severability

(1) The complete or partial invalidity or unenforceability of any clauses of these General Terms Projects shall leave intact the validity of the other clauses.

(2) In the event any clauses are deemed invalid, the parties agree to negotiate in good faith the replacement of the voided clause(s) by a clause closely related to the projected result of the voided clause.

Article §14. Termination clause

If an invoice is not paid by its due date, in the event of failure to fulfil any other contractual obligation or in the case of bankruptcy, apparent insolvency or any change in the legal situation of the Customer, SEW reserves the right to terminate the agreement by mere written notification and without prior notice of default, automatically, by law and without judicial intervention.

Article §15 Place of performance, place of jurisdiction and applicable law

(1) Unless stated otherwise in the order confirmation, SEW headquarters in Leuven, Belgium is the place of performance.

(2) The provisions of this agreement shall be subject to Belgian law exclusively, even if goods and services are performed in other countries. The United Nations Convention on the International Sale of Goods (CISG) shall not apply.

(3) In the event of a dispute the courts of law of Leuven (Belgium) have exclusive jurisdiction.

Heverlee, Belgium – 2017

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