

## 1. Definitions

(a) In these Terms, the following definitions apply:

**Business Days** means a day that is not a Saturday, Sunday, public holiday or bank holiday in Victoria;

**Commercial Credit Related Personal Information** means commercial credit information and commercial credit eligibility information and includes the information set out in Clause 1 of SEW-Eurodrive's Commercial Credit Reporting Policy;

**Customer** means the person specified in the Documentation who is purchasing Goods or Services from SEW-Eurodrive;

**Documentation** means any document which relates to the provision of Goods or Services by SEW-Eurodrive to the Customer and includes quotations, invoices, specifications and work records;

**Electronic Unit** means a device manufactured or supplied by SEW-Eurodrive and used to regulate, drive or control Geared Units;

**Geared Unit** means a SEW-Eurodrive geared motor, speed reducer or industrial geared unit;

**Goods** means the Goods specified in the Documentation;

**Insolvency Event** means, in relation to a party, any one or more of the following events or circumstances:

- (a) being in liquidation or provisional liquidation or under administration;
- (b) having a Controller or analogous person appointed to it or any of its property (as that term is defined in the *Corporations Act 2001 (Cth)*);
- (c) being taken under section 459F(1) of the *Corporations Act 2001 (Cth)* to have failed to comply with a statutory demand;
- (d) being unable to pay its debts or being otherwise insolvent;
- (e) becoming an insolvent under administration, as defined in section 9 of the *Corporations Act 2001 (Cth)*;
- (f) committing an act of bankruptcy within the meaning of section 40, or being or becoming bankrupt within the meaning of section 5 of, the *Bankruptcy Act 1966 (Cth)*; or
- (g) entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors;
- (h) any analogous event or circumstance under the laws of any jurisdiction;

unless such event or circumstance occurs as part of a solvent reconstruction, amalgamation, compromise, arrangement, merger or consolidation approved by the other party;

**Personal Information** has the meaning given to that term by the *Privacy Act 1988 (Cth)* and any associated amending legislation or requirements;

**PPSA** means the *Personal Property Securities Act 2009 (Cth)*;

**PPS Law** means the PPSA, the *Personal Property Securities Regulations 2010 (Cth)* and any amendment made at any time to any other law as a consequence of the PPSA;

**Privacy Policy** means the SEW-Eurodrive privacy policy set out on SEW-Eurodrive's website ([www.sew-eurodrive.com.au](http://www.sew-eurodrive.com.au)) as varied by SEW-Eurodrive from time to time;

**Repairs** means the repair of Electronic Units or Geared Units, undertaken by SEW-Eurodrive or by a third party authorised by SEW-Eurodrive, as specified in the Documentation which may involve replacement of a defective part;

**Security Interest** has the meaning given to such term in section 12 of the PPSA;

**Services** mean commissioning, Repairs or any other service work to be undertaken by SEW-Eurodrive or by a third party authorised by SEW-Eurodrive, as specified in the Documentation pursuant to the Documentation;

**SEW-Eurodrive** means SEW-Eurodrive Pty. Ltd. ABN 27 006 076 053 of 27 Beverage Drive, Tullamarine, Victoria 3043;

**SEW-Eurodrive Property** means all property in which SEW-Eurodrive has an interest under the terms of the Transaction Documents or a Security Interest for the purposes of the PPS Law;

**Terms** means these terms and conditions;

**Trade Law** means any:

- (a) statutes, regulations or by-laws of the Commonwealth of Australia, or any State or Territory of the Commonwealth of Australia or a Government Agency;
- (b) requirements and approvals (including conditions) of the Commonwealth of Australia or any State or Territory of the Commonwealth of Australia or a Government Agency that have the force of law; and
- (c) laws, regulations or other legal restrictions and requirements of any other jurisdictions or authorities, to the extent applicable, including the European Union, any member state of the European Union, the United Kingdom or the United States of America, which prohibit or restrict the supply, sale, transfer, export or other dealing in, of or with goods or services:
  - (i) of a particular kind or class;
  - (ii) to a particular place or class of places; or
  - (iii) to a particular person or class of persons; and

**Transaction Document** means these Terms or any document relating to or in connection with these Terms, including (without limitation) any Documentation.

## 2. General

- (a) Unless otherwise agreed in writing, these Terms govern the sale or supply of all Goods and Services by SEW-Eurodrive.
- (b) The Customer acknowledges and agrees with SEW-Eurodrive that the Goods and Services are not being acquired for personal, domestic or household use or consumption.

## 3. Acceptance and cancellation of orders

- (a) SEW-Eurodrive is not required to accept an order for Goods or Services.
- (b) If an order is cancelled after acceptance by SEW-Eurodrive, the Customer agrees to pay SEW-Eurodrive for all costs of any nature whatsoever incurred and work completed prior to cancellation in addition to any costs that, despite SEW-Eurodrive's efforts, cannot reasonably be avoided or mitigated following cancellation.
- (c) Notwithstanding any other provision in these Terms, SEW-Eurodrive is not required to accept an order for Goods or Services or deliver any Goods or provide any Services under an accepted order if SEW-Eurodrive considers (in its absolute discretion) that the provision of the Goods or Services may result in a breach of any Trade Law
- (d) The customer warrants as an express inducement to SEW-Eurodrive to supply the Goods that it will not, and will ensure that no other person will, cause or allow the Goods or any part of them to be supplied, sold or transferred in breach of a Trade Law. And
- (e) The Customer must indemnify and hold SEW-Eurodrive harmless in respect of any and all loss, damage, expense or liability which SEW-Eurodrive may suffer or incur if the Customer breaches the warranty in in clause 3 (d).

## 4. Delivery

- (a) SEW-Eurodrive will use all reasonable efforts to meet the estimated delivery dates specified in the Documentation, but SEW-Eurodrive's ability to do so is dependent upon SEW-Eurodrive's then current work flow, the availability of Goods and the prompt receipt of all necessary information from the Customer.
- (b) SEW-Eurodrive will deliver all Goods to the Customer's premises or such other premises as directed by the Customer from time to time.

**Terms and Conditions****5. Return of Goods**

Subject to clause 14.3, Goods may only be returned to SEW-Eurodrive in SEW-Eurodrive's absolute discretion and must be returned in accordance with the following conditions:

- (a) advice of any proposed return must be given within 60 days from the date of invoice for the Goods;
- (b) goods will not be accepted for return unless they are in good order and condition;
- (c) charges may be levied by SEW-Eurodrive to cover handling, inspection and reconditioning costs and must be paid by the Customer in accordance with clause 10; and
- (d) Geared Units or Electronic Units made as special or unique units will only be accepted for credit less the cost of converting them to standard units.

**6. Services****6.1 Services Generally**

- (a) SEW-Eurodrive warrants that the Services will be reasonably fit for the purpose notified to SEW Eurodrive and will be rendered with due care and skill.
- (b) It is the responsibility of the Customer to deliver the Goods for Service to the premises nominated by SEW-Eurodrive from time to time at the cost of the Customer.

**6.2 Services in relation to Repairs**

SEW-Eurodrive will perform Repairs in accordance with the Documentation relating to Repairs and unless otherwise agreed:

- (a) The Customer must pay for:
  - (i) any removal of third party parts found to be defective by SEW-Eurodrive;
  - (ii) replacement costs for any defective third party parts; and
  - (iii) freight costs of any defective third party parts.
- (b) SEW-Eurodrive has title to any parts that are no longer required by the Customer because those parts have been replaced or resupplied under these Terms.

**6.3 Services in relation to Electronic Units**

- (a) Subject to clause 6.3(b), in agreeing to service an Electronic Unit order by the Customer onsite at a Customer's premises or at such other premises as directed by the Customer from time to time, SEW-Eurodrive will:
  - (i) confirm that connection of the Electronic Unit has been installed in accordance with the manufacturer's specifications;
  - (ii) confirm that the electrical wiring to the Electronic Unit is correctly terminated;
  - (iii) confirm that all safety circuits in the Electronic Unit are in working order;
  - (iv) confirm that power is ready to be applied to the machinery where the Electronic Unit is attached to machinery; and
  - (v) complete a diagnostic test and any necessary adjustment to the parameters of the Electronic Unit.
- (b) In providing Services in relation to Electronic Units, SEW-Eurodrive does not accept responsibility for:
  - (i) the electrical wiring of the Customer's machinery and equipment;
  - (ii) the successful operation of the parameters of the Electronic Units;
  - (iii) ensuring there are appropriate safety circuits other than the safety circuits already incorporated in the Electronic Unit or any other SEW-Eurodrive equipment;

- (iv) ensuring the Customer's non essential employees are evacuated from the immediate area during commissioning and testing;
- (v) ensuring the safety of the Customer's machinery to which the Electronic Unit is attached; or
- (vi) ensuring there is a software backup of the drive control parameters of the Electronic Unit.

**6.4 Services in relation to Geared Units**

- (a) Subject to clause 6.4(b) and (c), in agreeing to service a Geared Unit onsite at the Customer's premises or at such other premises as directed by the Customer from time to time, SEW-Eurodrive will:
  - (i) confirm that the correct oil type and grade has been used;
  - (ii) confirm that no oil leaks from the Geared Unit;
  - (iii) confirm that the Geared Unit has not been damaged;
  - (iv) confirm that the Geared Unit has been mounted in the correct position; and
  - (v) observe, inspect and/or measure the noise, vibration and heat output of the Geared Unit in operation.
- (b) In providing Services in relation to Geared Units SEW-Eurodrive does not accept responsibility for:
  - (i) electrical wiring of the motor or accessories by the Customer to the Geared Unit;
  - (ii) ensuring the safety of the Customer's premises and employees; or
  - (iii) the configuration or installation of the Customer's safety and/or protective equipment.
- (c) Following commission of Geared Units the Customer bears sole responsibility for:
  - (i) the stability of the drive system, being the combination of the electrical motor, the Geared Unit and the application to which the Geared Unit is attached;
  - (ii) the compatibility of the connected rotating parts, free from critical speed, torsional and other type vibrations within specified speed range; and
  - (iii) observing the Geared Unit's installation, preparation and running operation instructions provided by the manufacturer.

**6.5 Emergency Service**

- (a) Subject to clause 6.5(b), SEW-Eurodrive will provide the Customer with access to a 24 hour emergency breakdown service for Repairs.
- (b) In accordance with clause 14.1(b) and for the avoidance of doubt, SEW-Eurodrive will not be liable to the Customer or any other person for any loss or damage (whether direct or indirect, incidental, special or consequential (within the meaning set out in clause 14.1(c))) suffered as a result of any delay or failure in responding to an emergency breakdown service call.

**7. Access to Customer's premises**

The Customer acknowledges that SEW-Eurodrive, its sub-contractors and agents will be entitled at all times to have reasonable access to the Customer's premises for the purpose of carrying out the Services described in the Documentation. The Customer warrants that its premises comply with all relevant Occupational Health and Safety standards.

**8. Prices**

Prices quoted are valid 60 days from the date of quotation. After that time the prices are SEW-Eurodrive's then current prices at the time of shipment of the Goods or provision of the Services, as applicable.

**Terms and Conditions****9. Costs for delivery, spare parts, returns and packaging**

- (a) SEW-Eurodrive will charge the Customer a fixed fee at a rate notified by SEW-Eurodrive to the Customer from time to time for:
- (i) delivery of Goods (excluding Goods that constitute spare parts) to any premises that are located within an Australian capital city; and
  - (ii) delivery of Goods that constitute spare parts wherever located.
- (b) Subject to clause 9(a)(ii), SEW-Eurodrive will charge the Customer the amount invoiced to it (plus GST) by any third party for the cost of delivering Goods to any premises located outside an Australian capital city.
- (c) Any fees and charges on Goods returned to SEW-Eurodrive's nominated premises, for examination or otherwise, will be prepaid by the Customer.
- (d) SEW-Eurodrive will not charge the Customer for its standard packaging for shipment within Australia.
- (e) SEW-Eurodrive will charge the Customer for export packaging or any other special packaging required.

**10. Terms of payment, provision of credit and interest payable**

- (a) Subject to clause 10(b), payment must be made in cash, net within 30 days from the date of the relevant invoice.
- (b) SEW-Eurodrive may in its absolute discretion require immediate payment of the purchase price, suspend or withdraw the provision of credit or change the credit limit provided to the Customer.
- (c) SEW-Eurodrive may charge interest on any amounts outstanding (at the current rate of penalty interest prescribed by the *Penalty Interest Rates Act 1983 (Vic)* or if this is greater than permitted by law then the highest rate permitted by law) from the due date for payment until such time as full payment of the outstanding amount is made by the Customer.

**11. Title and risk****11.1. Transfer of risk**

The risk of loss or damage to the Goods is transferred from SEW-Eurodrive to the Customer at the time of delivery of the Goods in accordance with the Terms.

**11.2. Retention of title**

Title to all Goods supplied by SEW-Eurodrive to the Customer remains with SEW-Eurodrive and does not pass to the Customer until the price for those Goods owing by the Customer to SEW-Eurodrive (**Amount Outstanding**) is paid to and received in full by SEW-Eurodrive in cleared funds.

**11.3. Customer's obligations**

Until title to Goods supplied by SEW-Eurodrive to the Customer passes to the Customer in accordance with clause 11.2, the Customer must:

- (a) store the Goods in a manner that enables them to be readily identified as SEW-Eurodrive's property and to be cross-referenced to particular invoices;
- (b) hold the Goods as the bailee and fiduciary agent of SEW-Eurodrive;
- (c) not supply or sell the Goods to any person, other than with SEW-Eurodrive's prior written consent or in the ordinary and usual course of the Customer's business;
- (d) on 24 hours notice from SEW-Eurodrive, allow SEW-Eurodrive to enter the premises where the Goods are stored to inspect the Goods and provide to SEW-Eurodrive, when required, the consent of any party whose consent is required for that entry;

- (e) keep records that relate to the Goods separately identifiable and readily distinguishable from those that relate to any other goods in its possession;
- (f) not allow any person to have or acquire any encumbrance or security interest in the Goods, other than with SEW-Eurodrive's prior written consent; and
- (g) keep the Goods insured against theft, damage and destruction (and if the Customer fails to insure the Goods, SEW-Eurodrive may do so and the Customer must reimburse SEW-Eurodrive for the cost of insurance).

**11.4. Customer's rights limited**

Notwithstanding clause 11.3(b), the Customer has no right to sell the Goods or deal with the Goods if:

- (a) an Insolvency Event occurs in respect of the Customer;
- (b) the Customer breaches the Terms and fails to remedy the breach within 5 Business Days after receiving notice from SEW-Eurodrive requiring the breach to be remedied; or
- (c) these Terms are terminated for any reason.

**11.5. Default in payment**

If clause 11.4 applies, then the Customer must return all Goods in which SEW-Eurodrive has title to SEW-Eurodrive on written demand. If the Customer does not return the Goods to SEW-Eurodrive within 24 hours after receipt of the demand, then without limiting any other rights or remedies SEW-Eurodrive may have:

- (a) SEW-Eurodrive may, as agent of the Customer, enter the premises where the Goods are located and do all things necessary to retake possession of the Goods, without liability for trespass or any resulting damage;
- (b) SEW-Eurodrive may keep or resell any of the Goods repossessed;
- (c) the Customer is liable for all costs associated with the exercise by SEW-Eurodrive of its rights under this clause 11.5, which costs are payable to SEW-Eurodrive on demand; and
- (d) the Customer indemnifies and must keep indemnified SEW-Eurodrive against all actions, claims, proceedings, demands, liabilities, losses, damages, expenses and costs (including legal costs on a full indemnity basis) that may be brought against SEW-Eurodrive or which SEW-Eurodrive may pay, sustain or incur as a direct or indirect result of the exercise by SEW-Eurodrive of its rights under this clause 11.5.

**12. Product safety**

Provision of the Goods or Services by SEW-Eurodrive in no way reduces the Customer's obligation to ensure that their use of the Goods and Services and the relevant operating environment is safe and in accordance with proper Occupational Health and Safety standards, including where appropriate the incorporation of a fail safe device.

**13. Product warranty**

- (a) Subject always to clause 13(e), all new Goods manufactured by SEW-Eurodrive that have been subjected to normal and proper use by the Customer are warranted only to be free from material defects in material and workmanship for a period of two years from the date of shipment to the Customer. For the avoidance of doubt, the warranty offered by SEW-Eurodrive under this sub-clause, extends only in relation to material and workmanship.

For the avoidance of doubt, a warranty under this sub-clause in relation to Repairs will apply only to the material and workmanship associated with the Repairs, not to the Goods as a whole

SEW-Eurodrive will use its reasonable endeavours to rectify at its cost any defect in the Goods notified to it during the warranty period.

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- (b) The Customer's sole remedy for a breach of clauses 6.1 and 13(a) is repair, replacement or resupply of the Goods or Services in accordance with clause 14.4.
- (c) SEW-Eurodrive will not be liable to rectify any defect in the Goods if, in SEW-Eurodrive's reasonable opinion:
- (i) the Goods have been altered or modified without SEW-Eurodrive's authorisation;
  - (ii) the defect is the result of or related to a failure of the Customer to comply with any of its obligations under these Terms; or
  - (iii) the defect is the result of or related to the use of the Goods other than in accordance with the Documentation or SEW-Eurodrive's reasonable recommendations or directions.
- (d) If any components or parts of the Goods are supplied to SEW-Eurodrive by other manufacturers, those Goods will only be subject to the warranty given by that manufacturer to SEW-Eurodrive and SEW-Eurodrive provides no warranty in respect of such Goods.
- (ii) the repair of the goods;
  - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
  - (iv) the payment of the cost of having the goods repaired; or
- (b) in the case of services:
- (i) the supplying of the services again; or
  - (ii) the payment of the cost of having the services supplied again.

**14. Limitations on Liability****14.1 Limited and excluded liability**

- (a) Unless these Terms provide otherwise, the maximum aggregate liability of SEW-Eurodrive for all proven losses, damages and claims arising out of these Terms, including but not limited to, liability for breach, in negligence or in tort or for any other common law or statutory action, is limited to the sum of the amounts paid by the Customer to SEW-Eurodrive pursuant to these Terms in the immediately preceding 12 month period.
- (b) Notwithstanding any other clause, SEW-Eurodrive will not be liable to the Customer or to any other person for:
- (i) any losses or damages of any kind caused by or resulting from any wrongful, wilful or negligent act or omission of SEW-Eurodrive or any of its officers, employees, agents or contractors; or
  - (ii) any indirect, incidental, special or consequential losses or damages.
- (c) For the purposes of these Terms, "indirect, incidental, special or consequential losses or damages" will include loss of profits or anticipated profits, economic loss, loss of business opportunity, loss of data or loss or damage resulting from wasted management time, even if SEW-Eurodrive or any other person was notified of the possibility of that potential loss or damage.

**14.2 Exclusion of implied warranties**

Any representation, warranty, condition or undertaking that would be implied in these Terms by legislation, common law, equity, trade, custom or usage is excluded to the maximum extent permitted by law.

**14.3 Non-excludable rights implied by statute**

Nothing in these Terms excludes, restricts or modifies any condition, warranty, right or remedy conferred on the Customer by the *Competition and Consumer Act 2010 (Cth)* or any other applicable law that cannot be excluded, restricted or modified by agreement.

**14.4 Liability for breach of non-excludable rights**

To the fullest extent permitted by law, the liability of SEW-Eurodrive for a breach of a non-excludable condition or warranty referred to in clause 14.3 and as otherwise provided for in these Terms are limited, at SEW-Eurodrive's option, to:

- (a) in the case of goods, any one or more of the following:
- (i) the replacement of the goods or the supply of equivalent goods;

**14.5 No representation**

- (a) The parties agree and acknowledge that any information provided by SEW-Eurodrive in connection with or related to the size of geared motors, inverters and control devices is based upon the specifications provided by the Customer and such information should not be relied upon as accurate and conclusive by the Customer. SEW-Eurodrive assumes no responsibility or liability in respect of the provision of such information.
- (b) SEW-Eurodrive makes no warranty as to the overall performance of any Customer's equipment, the Geared Unit and/or electronics used for the purposes of a carrying out Repairs and Services.

**14.6 Survival of clause**

Despite any other provision of these Terms, this clause 14 survives the expiry or termination of these Terms.

**15. Sub-contracting**

SEW-Eurodrive may in its absolute discretion engage or employ any person, sub-contractor or agent to provide any of the Services to the Customer.

**16. Force Majeure**

Where SEW-Eurodrive is unable, wholly or in part, by reason of an act of God, strike, lockout or other interference with work (whether or not involving employees of SEW-Eurodrive), war (declared or undeclared), sabotage, riot, act of terrorism, insurrection, civil commotion, national emergency (whether in fact or law), martial law, blockade, disturbance, lightning, fire, earthquake, flood, storm or other adverse weather conditions, explosion, power shortage, epidemic, quarantine, radiation or radioactive contamination, governmental or quasi-governmental restraint, unavailability or delay in availability of equipment or transport, inability or delay in obtaining governmental or quasi-governmental approvals, consents, permits, licenses, authorities or allocations, or any other cause which is not reasonably within the control of SEW-Eurodrive ("force majeure") to carry out any obligation under these Terms, SEW-Eurodrive will notify the Customer of that force majeure and to the extent they are affected the performance of SEW-Eurodrive's obligations will be suspended for the duration of the force majeure.

**17. Severance**

Any provision of these Terms which is invalid in any jurisdiction must, in relation to that jurisdiction, be read down to the minimum extent necessary to achieve its validity, if applicable, and be severed from these Terms in any other case, without invalidating or affecting the remaining provisions of these Terms or the validity of that provision in any other jurisdiction.

**18. Governing Law**

These Terms are governed by and must be construed in accordance with the laws in force in Victoria. The parties submit to the exclusive jurisdiction of the courts of that State and the Commonwealth of Australia in respect of all matters arising out of or relating to these Terms, its performance or subject matter.

**Terms and Conditions****19. Credit reporting under the *Privacy Act 1988 (Cth)***

- (a) The Customer acknowledges and agrees that SEW-Eurodrive may:
- (i) from time to time, collect, use or disclose Personal Information provided by the Customer and its proprietors, directors, employees, officers, consultants, contractors, agents or other third parties acting on the Customer's behalf (the Customer's **personnel**) or otherwise collected by SEW-Eurodrive in performing its obligations under these Terms;
  - (ii) use or disclose any Personal Information referred to in clause 19(a)(i) in accordance with the terms of its Privacy Policy; and
  - (iii) collect, use or disclose Commercial Credit Related Personal Information about its Customers and their personnel.
- (b) SEW-Eurodrive collects and uses Personal Information referred to in clause 19(a)(i) as described in the Privacy Policy, including for purposes such as:
- (i) providing and servicing geared motors and variable speed drives for industrial application to the Customer and its personnel;
  - (ii) providing other products or services to the Customer and its personnel;
  - (iii) administering SEW-Eurodrive's relationship with the Customer and its personnel including responding to queries;
  - (iv) identifying, informing and communicating with the Customer and its personnel about other products or services that may be of interest to the Customer and its personnel;
  - (v) managing SEW-Eurodrive's accounts and carrying out debt and equipment recovery functions; and
  - (vi) providing the Customer and its personnel access to the features of the DriveGate customer portal, and administering the Customer's, or its personnel's, DriveGate account, if applicable.
- (c) SEW-Eurodrive collects and uses Commercial Credit Related Personal Information for the additional purposes of:
- (i) assessing applications for commercial credit;
  - (ii) establishing and managing the relationship with the Customer;
  - (iii) exercising its rights and obligations;
  - (iv) performing any administrative operation; and
  - (v) collecting payments.
- (d) The Customer agrees that SEW-Eurodrive may disclose the Personal Information referred to in clause 19(a)(i) to third parties as described in the Privacy Policy, including its related companies or third parties who provide it with services in connection with its business.
- (e) The Customer agrees to the use and disclosure of Personal Information in accordance with these Terms and the Privacy Policy. Without this Personal Information, SEW-Eurodrive may not be able to effectively provide the Customer or its personnel with the goods, services or entitlements set out in these Terms. SEW-Eurodrive cannot provide its products, or a commercial credit account without collecting the required information.
- (f) SEW-Eurodrive also may exchange the Commercial Credit Related Personal Information about the Customer or its proprietors / directors with other credit providers and trade referees listed in this application or in reports provided by a credit reporting body. SEW-Eurodrive may exchange that information for the purposes of:
- (i) assessing the application for commercial credit and collecting overdue payments;
  - (ii) notifying other credit providers and trade referees of a default by the Customer;
  - (iii) ascertaining the status of credit provided to the Customer by SEW-Eurodrive where the Customer is in default with other credit providers; and
  - (iv) assessing the credit worthiness, credit standing or credit capacity of the Customer or its proprietors / directors.
- (g) SEW-Eurodrive exchanges Commercial Credit Related Personal Information with its related bodies corporate, its agents, contractors, external advisors and mercantile agents to accomplish SEW-Eurodrive's purposes as set out above. SEW-Eurodrive may also disclose Personal Information or Commercial Credit Related Personal Information to related entities located in New Zealand, the United States and Germany.
- (h) SEW-Eurodrive uses the credit reporting services provided by Dun and Bradstreet. Dun and Bradstreet may include the information provided by credit providers in reports to assist in assessment of credit worthiness. Dun and Bradstreet may use the credit reporting information it holds about the Customer and its proprietors / directors for "pre-screening" for direct marketing. The Customer [,its personnel] and its proprietors / directors have the right to request Dun and Bradstreet not to use the credit reporting information for pre-screening purposes, and not to use or disclose the information if they believe on reasonable grounds that they have been or are likely to be a victim of fraud. Please refer to Dun and Bradstreet's Credit Reporting Policy for details on its management of credit reporting information. A copy of Dun and Bradstreet's Credit Reporting Policy can be obtained by contacting Dun and Bradstreet on +61 3 9828 3333 (telephone) or [clientservices@dnb.com.au](mailto:clientservices@dnb.com.au) (email).
- (i) SEW-Eurodrive aims to ensure that the Commercial Credit Related Personal Information it holds about its Customers and any relevant personnel is accurate, complete, relevant, up-to-date and not misleading. SEW-Eurodrive's Commercial Credit Reporting Policy sets out more information about:
- (i) how to obtain access to the Personal Information, credit information and credit eligibility information held by SEW-Eurodrive;
  - (ii) how to seek correction of the Personal Information, credit information and credit eligibility information held by SEW-Eurodrive;
  - (iii) how to complain about a suspected breach of privacy by SEW-Eurodrive; and
  - (iv) how SEW-Eurodrive will deal with such complaints.
- (j) The Privacy Policy contains information about how the Customer and its personnel may access and seek correction of Personal Information and complain about a breach of privacy, and how SEW-Eurodrive will deal with that complaint.
- (k) To contact SEW-Eurodrive in relation to privacy or credit reporting, the Customer or its personnel can contact SEW-Eurodrive in any of the following ways:
- (i) write to the Company Secretary, SEW-EURODRIVE Pty Ltd, 27 Beverage Drive, Tullamarine, VIC 3043;
  - (ii) send an email to [mail@sew-eurodrive.com.au](mailto:mail@sew-eurodrive.com.au);
  - (iii) telephone 03 9933 1000; or
  - (iv) facsimile 03 9933 1003.
- (l) The Customer must ensure that any relevant Customer personnel who deal with SEW-Eurodrive in relation to SEW-Eurodrive's provision of goods and services to the Customer

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or whose Personal Information or Commercial Credit Related Personal Information is made available to SEW-Eurodrive are aware of and have agreed to the terms of this clause 19 and the disclosure and use of their Personal Information and (if applicable) their Commercial Credit Related Personal Information in accordance with these Terms.

- (h) For the purposes of section 115(7) of the PPSA, SEW-Eurodrive need not comply with sections 132 and 137(3);
- (i) The Customer must notify SEW-Eurodrive immediately of any change in its name, ABN, address or any other information provided to SEW-Eurodrive to enable SEW-Eurodrive to register a financing statement under PPS Law.

**20. PPS Law**

- (a) The Customer must do anything which SEW-Eurodrive requests (including providing information, signing a document or providing a notice to a third party) to:
  - (i) to enable SEW-Eurodrive to register any Security Interest under a Transaction Document in accordance with PPS Law;
  - (ii) ensure or enable SEW-Eurodrive to ensure that a Transaction Document and any Security Interest under a Transaction Document and any right, power or discretion conferred on SEW-Eurodrive under a Transaction Document are fully effective, enforceable and perfected with the priority required by SEW-Eurodrive;
  - (iii) more satisfactorily assure or secure to SEW-Eurodrive the Goods in a manner consistent with the Transaction Documents; or
  - (iv) aid SEW-Eurodrive to exercise of any right, power or discretion conferred on SEW-Eurodrive under any Transaction Document.
- (b) Subject to clause 20(c) below, if following the supply of any Goods by SEW-Eurodrive, the Customer holds any Security Interest in those Goods or in any other items associated with those Goods (including, without limitation, any intellectual property rights) and failure to perfect any such Security Interest would materially adversely affect the Customer's business, the Customer must:
  - (iii) perfect and register all such Security Interests;
  - (iv) take all steps under the PPSA to continuously perfect all such Security Interests;
  - (v) obtain, the highest ranking priority possible for all such Security Interests (such as perfecting a purchase money security interest or perfecting a Security Interest by control); and
  - (vi) take all necessary action to reduce the risk that a third party acquires an interest free of the Security Interest (such as by including the Serial Number in a Financing Statement for personal property that may or must be described by a serial number).
- (c) Notwithstanding clause 20(b) above, the Customer must not register a Security Interest against SEW-Eurodrive without first obtaining its prior written consent, including (without limitation) prior to the supply of any Goods or grant of any intellectual property rights by SEW-Eurodrive.
- (d) If SEW-Eurodrive reasonably suspects that the Customer is not complying with this clause 20 and requests an audit of the PPSA procedures, the Customer must arrange such audit at its expense.
- (e) The Customer agrees to pay or reimburse the costs of SEW-Eurodrive in connection with anything the Customer is required to do under this clause 20.
- (f) The Customer waives its right to receive any notice under the PPSA (including notice of a Verification Statement) unless required by the PPSA and if the notice cannot be excluded.
- (g) For the purposes of section 115(1) and 115(7) of the PPSA:
  - (i) SEW-Eurodrive need not comply with sections 95, 118, 121(4), 125, 130, 132(3)(d) or 132(4) of the PPSA; and
  - (ii) sections 142 and 143 of the PPSA are excluded;