

GENERAL TERMS AND CONDITIONS OF SALE

GENERAL

- a. All quotations, orders and contracts for the sale or supply of goods, and services, and the supply of credit by SEW Eurodrive (NZ) Limited ("SEW") to its customers (hereafter referred to as "the Customer") shall be subject to the following terms and conditions unless otherwise agreed to in writing.
- b. Project planning support from SEW occurs only within the scope of the entire system specified by the Customer. SEW does not accept any liability for such systems except as provided in this agreement, even if SEW offers and delivers goods that have integrated functional safety.
- c. SEW reserves the right to make any changes to technical data and designs in the interests of technical progress and development.
- d. SEW reserves the right of ownership and copyright in respect of all patterns, illustrations, drawings, calculations, and similar information, including those in electronic form, created, edited or supplied by SEW. The same applies to documents and information designated by SEW as "confidential." Prior written permission from SEW is required before this information may be disclosed to third parties.
- e. Specifications regarding the performance and service of products or items (in catalogues, product information, electronic media or labels, for example) are based on SEW's general experience and knowledge and are to be regarded as a guide only. The Customer is expected to carry out (and is solely responsible for carrying out) checking and testing to ensure that the product is technically and legally suitable for its intended use. The product specification, together with any expressly agreed performance characteristics, are not intended to act as a substitute for such checking and testing. The latest versions of all information (catalogues and operating instructions, for example) are available on the Internet at www.sew-eurodrive.co.nz.

1. ORDERS

- a. Delivery of goods and the provision of services shall be handled by SEW strictly on the basis of the applicable SEW order confirmation (the "Order Confirmation"), and in accordance with the following terms and conditions.
- b. Any other terms and conditions which are or may be sought to be imposed by the Customer, including purchase order terms and conditions, shall not apply unless SEW has agreed to them expressly in writing.
- c. Acceptance of an order by SEW does not imply that SEW has accepted any alternative terms and conditions associated with that order which have been proposed by the Customer.
- d. The Customer is required to provide correct specifications in full, and to check the Order Confirmation to ensure that the specifications provided by the Customer are accurately reflected in the Order Confirmation. SEW does not accept any responsibility or liability for the consequences of any errors resulting from the Customer's failure to provide accurate data and specifications.

2. PRICES & TERMS OF PAYMENT

- a. Pricing and offers from SEW are subject to change and SEW reserves the right to amend or withdraw its pricing / offers by giving written notice to the Customer at any time. Written quotations remain valid for 30 days. Beyond that time, prices may be adjusted by SEW at its sole discretion. An agreement comes into effect when SEW provides a written Order Confirmation.
- b. All assembled products and parts are quoted ex works. Prices do not include packaging, freight, insurance or Goods and Services Tax or any other legally applicable sales tax unless noted in the quotation document or Order Confirmation.
- c. Payment shall be made by the 20th of the month following invoice without any deductions and free of any charge to a designated SEW account.
- d. Payment of account balances by credit card will be subject to a 3% surcharge.
- e. For cash sales customers, payment is required in full prior to production release or in the case of parts, before delivery.
- f. SEW may in its sole discretion at any time require full or part payment in advance of delivery, and the Customer shall not be entitled to any damages or compensation arising from such requirement.
- g. SEW may charge interest at the rate of 10% per annum on any overdue account from the date of due payment until the date of actual payment. SEW may recover any collection costs regarding outstanding accounts including Court and Solicitors costs on a Solicitor-client basis. In the event of any default in payment, SEW reserves the right to issue a notice to the Customer requiring the goods to be returned.

3. DELIVERY

- a. SEW will use all reasonable efforts to meet the estimated delivery dates specified in the Documentation, but SEW's ability to do so is dependent upon SEW's then current workflow, the availability of Goods and the prompt receipt of all necessary information from the Customer. SEW shall not be liable for any costs of damages resulting from delays in delivery.
- b. SEW will deliver all Goods to the Customer's premises or such other premises as directed by the Customer from time to time.

4. PACKAGING AND DELIVERY CHARGES

- a. In the event that SEW is entrusted with the freight of the goods, the delivery terms will be amended to DAP (Delivered at Place, seller assumes all responsibility for risks & costs to designated delivery address).
- b. SEW charges for its standard packing for shipment within New Zealand and reserves the right to charge for cartons and pallets where necessary. The Customer will be charged for export or other special packing as required.
- c. SEW is an environmentally friendly organization and we reserve the right to use recycled packaging where possible.

5. RETURN OF GOODS FOR CREDIT

- a. Goods may not be returned to SEW without the prior written approval by SEW. Approval for the return of goods will be considered by SEW, at its sole discretion, only in circumstances where:
 - i. Advice of any proposed return is given within 30 days after the date of the invoice.
 - ii. Items are received in our store within 90 days of invoice.
 - iii. Items are in good order and condition, and in the case of electronic goods, in the original unopened packaging.
 - iv. Transportation and other costs for return are pre-paid by the Customer.
 - v. The goods are accompanied by a copy of SEW's Packing Slip or Invoice and a written explanation of reasons for return.
- b. SEW will be entitled to charge a handling fee for inspection, disassembly, reconditioning and/or re-stocking of items.
- c. Special or unique units (for example imported units / parts, altered motors, special voltages, shaft modifications and similar) will only be accepted for credit less the cost of special parts used.
- d. Freight and or surcharges will not be refunded or credited on returned goods.

6. PRODUCT SAFETY

- a. The Customer is responsible for the safe installation and application of the product.
- b. SEW's products are manufactured to high standards but no product is fail-safe within itself. When risk to person or property may be involved, a fail-safe device should be an integral part of the driven equipment. The Customer bears the risk and responsibility of ensuring that a fail-safe device is included where necessary or prudent.

7. RISK AND TITLE

- a. Title and ownership of the Goods shall remain with SEW until they have been fully paid for. Risk shall pass to the Customer on delivery. The Customer acknowledges that it is in possession as agent and bailee for SEW until payment has been made in full and owes SEW a fiduciary duty to hold the goods for the benefit of SEW until such time as legal and equitable title shall transfer on full payment of all amounts owing by the Customer to SEW. The Customer shall keep the goods insured from the date and time of delivery.
- b. The Customer's right to possession of unpaid goods shall terminate on the issuing of a written demand by SEW, requiring the goods to be returned. Following the issue of such written demand, SEW shall be entitled to enter the Customer's premises at any time to recover the goods and the Customer shall do all things necessary to cooperate with SEW's efforts to recover the goods from the Customer.
- c. In the absence of separate storage by the Customer so that the goods remain readily identifiable, and in the absence of evidence to the contrary, any goods held by the Customer which meet the description of the goods on an invoice in respect of which payment has not been made in full or in respect of which title to the goods has not transferred from SEW, shall be deemed to be goods to which SEW has retained title so that SEW shall be entitled to exercise any of SEW's remedies hereunder against such goods.
- d. Subject to the terms herein, the Customer is licensed by SEW to sell the Goods in the ordinary course of the Customer's business, subject to the express condition that until the Goods are paid for the Customer shall be acting as SEW's agent (save that the Customer shall not hold itself out to third parties as such) and bailee, whether the Customer purports to sell on the Customer's own account or not.
- e. As security for all obligations that the Customer may owe to SEW from time to time, the Customer hereby grants SEW a security interest under the Personal Property Securities Act 1999 ("the PPSA") in all goods supplied by SEW to the Customer from time to time and in the proceeds of all such goods as well as in any negotiable instrument representing any such proceeds.
- f. The Customer will provide SEW on request, all information necessary for the registration of SEW's security interest in terms of the PPSA.
- g. The Customer agrees that it will not permit, or enter into any agreement which permits any other person to register a security interest under the PPSA in respect of the goods supplied by SEW.
- h. Pursuant to section 107 of the PPSA, SEW and the Customer agree to contract out of the following sections of the PPSA: Sections 114(1)(a), 133 and 134. The Customer acknowledges that those sections shall not apply in respect of goods supplied by SEW. The Customer hereby waives its right in terms of section 148 of the Act to receive a copy of a verification statement.
- i. SEW and the Customer also agree that the rights of the Customer as the debtor in sections 116, 120(2), 121, 125, 126, 127, 129 and 131 of the Act shall not apply in respect of goods supplied by SEW and hereby contract out of those sections.

8. FORCE MAJEURE

- a. Where SEW 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), 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, pandemic, 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 ("force majeure") to carry out any obligation under these Terms, SEW will notify the Customer of that force majeure and to the extent they are affected the performance of SEW's obligations will be suspended for the duration of the force majeure.

9. EXPORT RESTRICTIONS

- a. The goods and/or services described in the Order Confirmation may be subject to export control regulations stipulated by New Zealand, German, European or United States law, for example due to the type or intended use, or final destination of the delivery. In such cases SEW may refuse to supply such goods or service to comply with these restrictions.

10. PRODUCT WARRANTY AND LIMITATION OF LIABILITY

- a. The Customer (whether or not it is a Consumer of goods and services supplied by SEW) agrees and acknowledges that all supplies of goods and services from SEW are, or will be acquired for the Customer's business purposes, and not for personal or domestic use, and accordingly the provisions of the Consumer Guarantees Act 1993 do not apply as between the Customer and SEW.
- b. The Customer acknowledges that it has satisfied itself that the goods are suitable for its purpose and that no representation as to suitability has been made by SEW.
- c. Provided that the product has been treated with reasonable care and has been subject to ordinary and proper use only, all new products manufactured by SEW are warranted to be free from defects in materials and workmanship for a period of 2 years from the date of delivery.
- d. The Warranty is for faulty workmanship and materials only and is strictly, subject to the return of the suspect product to the Customer's closest SEW Service Facility for assessment. Any unauthorised dismantling, repair or modification voids this warranty.
- e. Subject to provisions stated in these terms and conditions if any component or parts (including electric motors) supplied to SEW by other manufacturers are the subject of a claim, the Customer shall be entitled to such benefits as SEW may receive under any warranty given to SEW by that manufacturer.
SEW's total liability to the Customer (whether under this warranty whether express or implied or otherwise) shall be limited to the repair or replacement of defective material and workmanship and under no circumstances whatsoever shall SEW be liable for consequential or indirect loss or damage, such as legal costs, loss of profit or liability to third parties.

11. ADDITIONAL TERMS AND CONDITIONS FOR CREDIT ACCOUNTS

- a. The Customer and its director/s authorises any person or company to provide SEW with such information as SEW may require in response to SEW's credit enquiries, including information concerning the creditworthiness of the Customer and/or its directors. The Customer and its director/s further authorise SEW to furnish to any third party, including Credit Agencies, or professional legal and accounting advisors, details of this application and any subsequent dealings that the Customer may have with SEW as a result of this application being actioned by SEW.
- b. The Customer understands that should a trading account be granted, payment is the 20th day of the month following delivery. In the event of late payment SEW is entitled to charge interest on the account on the amount outstanding from the date of due payment through until payment at the rate of 10% per annum.
- c. The Customer agrees to be liable for any collection costs incurred by SEW from the date of default including debt collector's costs, Court and legal costs on a Solicitor client basis.
- d. SEW reserves the right to reduce or cancel any credit limits offered to the Customer in its sole discretion.

12. SERVICE – GENERAL

- a. SEW warrants that the Services will be reasonably fit for the purpose notified to SEW-Eurodrive and will be rendered with due care and skill. Any other terms and conditions which are, or may be sought to be imposed by the Customer, including purchase order terms and conditions, do not apply unless SEW has agreed to them expressly in writing.
- 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 and at the cost of the Customer.
- c. SEW will perform service and repairs in accordance with the relating documentation unless otherwise agreed.
- d. SEW accepts no liability for items damaged or lost during shipping either from or to the customer. The customer must provide their own insurance, to cover any loss incurred during shipping.
- e. The Customer acknowledges that SEW, 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. The Customer warrants that its premises comply with all relevant Occupational Health and Safety standards.

13. SERVICES IN RELATION TO REPAIRS

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

14. SERVICES IN RELATION TO ELECTRONIC UNITS

- a. Subject to clause 14(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.

GENERAL TERMS AND CONDITIONS OF SALE

- 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
 - 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.

15. SERVICES IN RELATION TO GEARED UNITS

- a. Subject to clause 15(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 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.

16. EMERGENCY SERVICE

- a. Subject to clause 16(b), SEW-Eurodrive may from time to time provide the Customer with access to a 24 hour emergency breakdown service for Repairs.
- b. In accordance with clause 10 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 suffered as a result of any delay or failure in responding to an emergency breakdown service call.

17. SEW'S REMEDIES ALWAYS ENFORCEABLE

- a. A waiver of any right or remedy under this contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under this contract or by law shall constitute a waiver of that or any other right or remedy.

18. MISCELLANEOUS

- a. The law of New Zealand shall apply to this agreement and the Customer hereby submits to the exclusive jurisdiction of the New Zealand Courts.
- b. The Customer shall notify SEW immediately should the Customer change its physical or e-mail address. In the absence of notification that the Customer has changed address, the Customer acknowledges and agrees that the address held by SEW is the Customer's current address for the purposes of the PPSA and for the delivery of any notices, demands or legal proceedings which may be issued by SEW.