

## General terms and conditions

### General terms and conditions for goods (supplies) and services of SSB Duradrive GmbH for use in business dealings with companies.

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#### I. Applicability of these terms and conditions of delivery

The following terms and condition of business shall apply exclusively to the contractual relations between SSB Duradrive GmbH and the customer, even if these are not expressly mentioned in relation to each individual (subsequent) transaction. The customer's terms and conditions shall only apply if expressly recognised by SSB Duradrive GmbH in writing.

#### II. Common provisions

1. A contract shall only be awarded if SSB Duradrive GmbH expressly confirms acceptance of a quotation to the customer in writing after receiving a purchase order.
2. An order confirmation is mandatory for all orders, particularly in relation to the scope of supplies or services. Ancillary agreements and amendments to an order must also be confirmed in writing by SSB Duradrive GmbH to be valid. This requirement cannot be waived.
3. SSB Duradrive GmbH shall retain full unrestricted property rights, copyrights and other rights of exploitation to the cost estimates, drawings and other documents (hereinafter referred to as the "documents"), particularly if no contract is entered into. The documents must only be made accessible to third parties with the prior written approval of SSB Duradrive GmbH and must be returned to SSB Duradrive GmbH immediately on request if no contract is reached with SSB Duradrive GmbH. The aforementioned provision applies accordingly to the customer's documents; these may, however, be made accessible to third parties to whom SSB Duradrive GmbH has transferred or will permissibly transfer supplies.
4. The customer shall have the non-exclusive right of use to standard software with the agreed performance specifications in non-modified format on the agreed equipment. The customer must not create back-up copies without express agreement.
5. Part deliveries shall be permitted without express agreement as long as these are reasonable for the customer.

#### III. Prices and terms of payment

1. Prices are quoted ex works excluding packaging plus the relevant rate of VAT.
2. If SSB Duradrive GmbH is responsible for the installation and/or assembly and/or other service, the customer shall bear all necessary ancillary costs in addition to the agreed remuneration such as travel expenses, costs for transporting the hand tools and personal luggage as well as field allowances, unless otherwise agreed.
3. All payments must be made to SSB Duradrive GmbH directly without paying agents.
4. Unless otherwise agreed, payments shall be due with immediate effect and must be made no later than 30 days following receipt of invoice. If this deadline is exceeded, the customer shall automatically fall into arrears without any warning.
5. The customer may only set off these claims if the claims are undisputed or upheld by a court of law.
6. Payments by cheque made by the customer shall only be accepted as conditional payment.

7. If following acceptance of the order (conclusion of the contract) the customer experiences a significant deterioration in its financial position, e.g. cheque protest, debt adjustment plan, filing for insolvency, SSB Duradrive GmbH can request a guarantee or a deposit for all outstanding supplies and services arising from the contract.

If the customer fails to comply with this request, SSB Duradrive GmbH can withdraw from the contract or set a deadline and demand compensation in lieu of performance.

#### **IV. Retention of title**

1. Deliveries shall be made exclusively with retention of title. The goods supplied shall remain the property of SSB Duradrive GmbH until the customer has settled in full all claims arising from the mutual business relations.  
This shall also apply if the purchase price for certain supplies of goods specified by the customer is paid.
2. The customer undertakes to correctly store the goods to be supplied until full payment is made and to protect these from fire and water damage as well as theft.
3. If operating a running account the retention of title acts as a guarantee for payment of the balance. If the customer falls into arrears, SSB Duradrive GmbH is permitted when requested to hold the goods stored by the customer and supplied by SSB Duradrive GmbH in stock.
4. If the goods held in the possession of SSB Duradrive GmbH are processed with other objects, SSB Duradrive GmbH shall acquire joint ownership to the new items in the ratio of the invoice value of the SSB Duradrive GmbH supplies to the value of the other processed goods at the time of processing. Moreover, the customer shall store the goods owned solely or jointly by SSB Duradrive GmbH free of charge on behalf of SSB Duradrive GmbH.
5. The customer is entitled to sell the goods supplied in ordering business dealings.
6. The customer is prohibited from pledging or assigning unpaid goods as security.
7. The customer undertakes to immediately notify SSB Duradrive GmbH of any threat to ownership due to an imminent or completed pledge, retention or other third-party "attacks" and to inform the executory officers of SSB Duradrive GmbH's ownership. The customer shall be liable for damage caused by negligence and for any intervention costs. The costs employed to avert said pledge shall be borne by the customer.
8. If the customer sells the goods supplied by SSB Duradrive GmbH, irrespective of condition, the customer shall hereby assign all claims and ancillary rights arising from the sale up to value of the goods built into the items sold until all of SSB Duradrive GmbH's debts towards its buyers in relation to supplied goods and/or services have been settled in full. SSB Duradrive GmbH shall accept this assignment. The customer is authorised to collect these debts.  
All other assignments are strictly forbidden. When requested, the customer is bound to inform its subcustomers of this assignment and to provide SSB Duradrive GmbH with any information and documents required to assert its rights against sub-customers. SSB Duradrive GmbH is also authorised to collect said debts.
9. If the value of security provided to SSB Duradrive GmbH exceeds SSB Duradrive GmbH's claim from goods and/or services by more than 20 % in total, SSB Duradrive GmbH is bound to make a proportional reassignment when requested by the customer.  
If goods are returned due to retention of title, SSB Duradrive GmbH is only bound to credit the invoice value less any depreciation that has since occurred and less any return and dismantling costs.
10. If the customer fails to meet the aforementioned obligations (no. 1 to 9), SSB Duradrive GmbH is permitted to request the immediate return of all goods supplied by SSB Duradrive GmbH.

## V. Lead times; delays

1. Lead times within the meaning of a binding contractual deadline shall only be deemed binding if set down in writing, if specified as binding and if confirmed by SSB Duradrive GmbH.
2. All agreed binding lead times shall be stated ex works, unless otherwise agreed.
3. If the customer requests changes to the goods or services, any previously agreed lead times shall be null and void. A new lead time shall only apply once any changes have been confirmed and once a new binding lead time has been confirmed by SSB Duradrive GmbH.
4. Observance of deadlines for goods and services assumes the prompt receipt of all documents, authorisations and approvals to be provided by the customer, in particular drawings, etc and compliance with the agreed payment terms and other obligations by the customer. If these requirements are not met promptly by the customer, said deadlines may be reasonably extended; this shall not apply if SSB Duradrive GmbH is responsible for the delay.
5. If the deadlines are not observed due to a case of force majeure, e.g. mobilisation, war, riot or similar events, e.g. strike, lockout or natural catastrophes, said deadlines shall be extended as appropriate.
6. The customer may not make claims for damages due to delivery delays and claims for damages in lieu of performance in all cases of delivery delays, even if a delivery deadline set by SSB Duradrive GmbH expires. This shall not apply in cases of negligence, gross negligence or due to injury to life, limb or health.
7. Any compensation payable by SSB Duradrive GmbH due to delay shall be limited to negative interest.
8. The customer may only legally withdraw from the contract if the delay in delivery is caused by SSB Duradrive GmbH. Any change to the burden of evidence to the detriment of the customer shall not be linked to the aforementioned regulations.
9. The customer is bound to state whether or not he wishes to withdraw from the contract due to a delay in delivery/performance within an appropriate period when requested by SSB Duradrive GmbH. Otherwise the delivery/performance shall continue.
10. If shipment or delivery is delayed by more than one month of notification of the shipment date at the request of the customer, the customer can be charges warehouse charges for each month or part thereof in the amount of 0.5 % of the price of the objects contained in the delivery up to a maximum of 5 %. The contracting parties shall be at liberty to prove higher or lower warehouse costs.

## VI. Transfer of risk

1. Risk shall pass to the customer, including for carriage prepaid deliveries, as follows:
  - a. For deliveries without installation or assembly, when the goods are delivered or collected. Deliveries made by SSB Duradrive GmbH shall be insured against ordinary transport risks at the request of and at cost to the customer;
  - b. For deliveries with installation or assembly on the date the goods are put into operation or, if agreed, after a successful test run.
2. If the shipment, delivery, start, performance of installation of assembly, placing into operation or test run is delayed by the customer or if the customer delays acceptance for whatever reason, risk shall be transferred to the customer with default of acceptance.

## VII. Installation and assembly

Unless otherwise agreed, installation and/or assembly shall be carried in accordance with the following provisions:

1. The customer shall be required to carry out and provide at own cost:
  - a. All earth, building and other ancillary works outside the particular sector of industry, including all necessary specialist and ancillary staff, building materials and tools,
  - b. The supplies and materials required for assembly and commissioning, such as scaffolding, hoists and other equipment, fuels and lubricants,
  - c. Power and water at the point of use including connectors, heating and lighting,
  - d. Sufficient suitable, dry and lockable rooms for storing machine components, apparatus, materials, tools, etc. at the point of assembly and appropriate working and rest areas for the assemblers, including sanitary facilities appropriate to the circumstances; moreover, the customer must take all measures to protect the supplies and the assemblers on site that he would otherwise take to protect his own property,
  - e. Protective workwear and equipment, which are required as a result of the special nature of the point of assembly.
2. Before assembly starts the customer must provide the necessary information on the position of covered electricity, gas and water pipes or similar installations and the necessary structural information even if not requested.
3. Before installation or assembly starts the supplies and objects required for the start of work must be made available at the point of installation or assembly all preliminary work must be sufficiently advanced before work starts so that installation or assembly can commence as agreed and can be performed without interruption. Access routes and the place of installation or assembly must be level and clear.
4. If installation, assembly or commissioning is delayed due to circumstances beyond the control of SSB Duradrive GmbH, the customer must bear the costs incurred by SSB Duradrive GmbH for waiting time and additional travel expenses or for assemblers upon production of a receipt as appropriate.
5. The customer must certify the working hours completed by the assemblers each week and certify the completion of installation, assembly or commissioning for SSB Duradrive GmbH.
6. If SSB Duradrive GmbH requests acceptance of the service/goods following completion, the customer must carry out acceptance within two weeks. If this does not occur, the service/goods shall be classed as accepted. Acceptance shall also be deemed complete, if the goods/service have been used, if applicable following an agreed test run.

## VIII. Receipt

The customer may not refuse receipt of deliveries due to minor defects.

## IX. Warranty

1. Complaints
  - a. The customer must immediately inspect the goods (supplies/services) and immediately report any noticeable defects in writing within no more than 7 days of receipt. This also applies to incorrect deliveries.
  - b. If defects are identified during (further) processing, all processing must be stopped with immediate effect and SSB Duradrive GmbH must be notified immediately in writing.
  - c. If goods are delivered directly to third parties, the deadline for complaints shall be extended to 14 days. Hidden defects must be reported immediately in writing as soon as they are discovered.
  - d. If the aforementioned requirements for inspecting goods/services and making complaints are not met, any warranty claims shall be excluded.

- e. Irrespective of this, warranty claims shall be excluded for components provided by the customer, unless otherwise agreed, and in the event of unsuitable or improper use, opening and/or dismantling without authorisation, incorrect assembly or commissioning by the customer or a third party, natural wear and tear, incorrect or negligent handling, excessive loading, unsuitable equipment, replacement materials, unsuitable foundation, unless the defects are caused by SSB Duradrive GmbH.
2. Liability for material defects by SSB Duradrive GmbH
- a. In the case that material defects occur within the warranty period as a result of circumstances prior to the transfer of risk, SSB Duradrive GmbH shall remedy said defects free of charge, resupply the goods in question (part delivery) or re-perform the service at its discretion within an appropriate period.
  - b. Claims for defect shall not apply if there are only minor deviations from the agreed properties, if there are only minor restrictions on use, if there is natural wear and tear or damage, which occur after the transfer of risk as a result of incorrect or negligent handling, excessive loading, unsuitable equipment, defective building work, unsuitable foundations or due to extraordinary external influences, which are not provided for under the contract and non-reproducible software errors. If unauthorised changes or repairs are carried out by the customer or by third parties, claims of defect shall not be accepted for these and for any resulting consequences.
  - c. Claims for material defect shall expire after 12 months (warranty period), repairs shall expire after 6 months (warranty period), irrespective of the length of operation, unless otherwise expressly agreed. The 12 month warranty period, 6 months for repairs, shall not apply if longer deadlines are prescribed by law in accordance with § 438 (1) (2) (structures and materials for structures), 479 (1) (claims under a right of recourse) and 634a (1) (2) (building defects) of the German Civil Code or if injury to life, limb or health occurs, if the supplier fails to meet its obligation through negligence or gross negligence or if a defect is fraudulently concealed.
  - d. Claims made by the customer related to costs required for subsequent performance, in particular transport, infrastructure, labour and material costs, shall be excluded, if said costs increase because the object of delivery/performance is subsequently transferred to a location other than a subsidiary of the customer, unless said transfer corresponds to its proper use.
  - e. Claims under a right of recourse made by the customer against SSB Duradrive GmbH in accordance with § 478 of the German Civil Code (recourse by the contractor) shall only be accepted if the customer has not made any agreements with its buyers that extend beyond statutory claims of defect. The scope of claims under a right of recourse by the customer against SSB Duradrive GmbH in accordance with § 478 (2) of the German Civil Code shall also be governed by paragraph IX.2 d).
  - f. Any claims for damages made by the customer shall be limited to the value of the part of the delivery/ service that is defective. Insurance is recommended with regards to the limitation of liability. The limitation of liability shall not apply if liability occurs as a result of negligence, gross negligence or due to injury to life, limb or health; this shall not be linked to any change to the burden of proof to the detriment of the customer. This shall not affect the right of the customer to withdraw from the contract.

## **X. Industrial property rights and copyrights; deficiency in title**

Unless otherwise agreed, SSB Duradrive GmbH undertakes to make deliveries only to the country of the place of delivery free of any industrial property rights and copyrights of third parties (hereinafter referred to as “property rights”).

If a third party makes valid claims against the customer due to the infringement of property rights by supplies provided and used properly by SSB Duradrive GmbH, SSB Duradrive GmbH shall accept liability on behalf of the customer during the period defined under paragraph IX.2 c) as follows:

1. SSB Duradrive GmbH shall choose at its discretion to either secure a right of use, to change use so that the property right is not infringed or to replace it at own cost. If this is not possible under appropriate conditions, the customer shall be entitled make deductions or to withdraw from the contract.
2. Obligations regarding the payment of compensation shall be governed by paragraph XII.

3. The aforementioned obligations shall only apply if the customer immediately notifies SSB Duradrive GmbH in writing of any claims asserted by third parties, if an infringement is not acknowledged and if SSB Duradrive GmbH retains the right to all defensive measures and conciliation negotiations. If the customer ceases use of the goods/service in order to minimise damage or for any other reason, the customer undertakes to notify the third party that ceasing use in no way acknowledges an infringement of property rights.
4. Claims by the customer shall be excluded if the customer is responsible for the infringement.
5. Claims by the customer shall also be excluded if the infringement is caused by the customer's special requirements, by a form of use unforeseeable by SSB Duradrive GmbH or by the fact that the delivery is changed or made together with products not supplied by SSB Duradrive GmbH.
6. If property rights are infringed, any claims made by the customer in paragraph X.1 shall be governed by the provisions of paragraph IX.2.
7. If other deficiencies in title occur, the provisions of paragraph IX.2 shall apply accordingly. Further claims made by the customer against SSB Duradrive GmbH and its vicarious agents other than the claims for deficiency in title set out in this paragraph X shall be excluded.

## **XI. Impossibility of performance; amendments to the contract**

1. If performance is impossible, the customer is entitled to demand compensation unless the impossibility of performance is caused by circumstances beyond SSB Duradrive GmbH's control. However, the customer's claims for damages shall be limited to 10 % of the value of the respective part of the delivery that cannot be used appropriately due to said impossibility of performance. Insurance is recommended with regards to the limitation of liability. The limitation of liability shall not apply if liability occurs as a result of negligence, gross negligence or due to injury to life, limb or health; this shall not be linked to any change to the burden of proof to the detriment of the customer. This shall not affect the right of the customer to withdraw from the contract.
2. If unforeseeable events within the meaning of paragraph V.5 significantly change the financial importance or the content of the delivery or have a significant impact on the business of SSB Duradrive GmbH, the contract shall be amended appropriately in accordance with the principle of good faith. If this is not financially viable, SSB Duradrive GmbH shall be entitled to withdraw from the contract. If SSB Duradrive GmbH wishes to assert this right of withdrawal, SSB Duradrive GmbH must notify the customer immediately based on its knowledge of the extent of the event, even if an extension to the lead time had been agreed with the customer.

## **XII. Other claims for damages**

1. Claims for damages and reimbursement of expenses made by the customer (hereinafter referred to as "claims for damages") shall be excluded, irrespective of their legal basis, particularly for breach of duty under the contractual obligations, for unauthorised action.
2. This shall not apply if liability is mandatory, e.g. in accordance with the Product Liability Act, in case of negligence, gross negligence, injury to life, limb or health or a breach of fundamental contractual obligations. Claims for damages for a breach of fundamental contractual obligations shall be limited to calculable damages, as per standard contract provisions, unless liability is due to negligence, gross negligence, and injury to life, limb or health. Any change to the burden of evidence to the detriment of the customer shall not be linked to the aforementioned regulations.
3. If the customer is entitled to make claims for damages in accordance with this paragraph XII, said claims shall expire at the end of the period if limitation applicable for claims of material defect in accordance with paragraph IX.2 c). Claims for damages under the Product Liability Act shall be subject to statutory provisions on the period of limitation.

### **XIII. Jurisdiction and applicable law**

1. If the customer is a business, the sole place of jurisdiction for all disputes arising directly or indirectly from the contract shall be the court in the place of the registered office of SSB Duradrive GmbH. However, SSB Duradrive GmbH is permitted to lodge disputes with the court in the place of the registered office of the customer.
2. The legal relationship established under this contract shall be governed by German law excluding the United Nations Convention for Contracts for the International Sale of Goods (CISG).

### **XIV. Concluding provisions**

1. Ancillary agreements, amendments or supplements to this contract between the parties and any waiver of the requirement for written form shall only take effect if agreed in writing.
2. If individual provisions of this contract are invalid in full or in part, this shall not affect the validity of the remaining provisions. In this case the invalid provision shall be interpreted or supplemented by the parties in such a way that the financial purpose intended by the invalid provision is achieved. This shall not apply if adhering to the contract would cause unreasonable hardship to either party.