

GENERAL TERMS OF DELIVERY BLUESKY ENERGY COMMERCIAL CLIENTS

General Terms of Delivery of BlueSky Energy Entwicklungs- und Produktions GmbH, located at 4870 Vöcklamarkt, Fornacherstraße 12, for commercial clients

1. Scope of application

1.1. These delivery and payment conditions apply exclusively to our deliveries and services to commercial clients, as well as payments made to us. Any other terms and conditions of the client require our written consent.

1.2. Austrian law shall apply. UN sales law is excluded.

2. Offers and information

2.1. Our offers are without obligation and are non-binding, unless a commitment period is stated in the offer.

2.2. We reserve the ownership rights and copyrights to enclosed drawings and other documents. They may not be made accessible to third parties or used for their objectives without our written consent.

2.3. Performance data and number of charging and discharging cycles are approximate and are not considered as specially agreed properties unless they have been expressly promised in writing.

2.4. Power storage configurator: The configurator was created using software. We cannot assume any liability for the functionality of the software, nor for its use and the result. The result of the calculation merely constitutes a non-binding proposal. Claims for damages are excluded. Functions and information contained in this software are subject to change without notice.

3. Order acceptance

3.1. An order becomes binding for us only if it has been confirmed by us in writing or by email and any down payment agreed has been received on our business account.

3.2. Secondary agreements made by our employees require our explicit consent in writing or by email.

4. Prices and terms of payment; offsetting

4.1. The prices in the offer are quoted ex works, unpacked, uninsured and without the statutory VAT. Packaging is non-returnable.

4.2. Payments are to be made with no deductions by free transfer to our bank account in accordance with agreed terms of payment. If no terms of payment have been agreed upon, 50% net payment shall be deemed promptly payable upon confirmation of order, with the other 50% net payment payable before delivery.

4.3. We reserve the right with which payment claims or parts of claims by the client are charged. Offsetting against counterclaims of the client is excluded, unless the counterclaims have been expressly recognised by us or have been determined by a court of law.

4.4. In case of payment default, we are entitled to charge the default interest according to the Austrian Corporate Code (UGB), plus any dunning costs.

4.5. For works (assembly, repairs, maintenance and similar work), we charge the hourly rates and material prices valid at the time of order. For work performed at night, on Sundays and on public holidays, we charge the surcharges applicable in the country of execution. Travel time and costs are charged separately. The applicable hourly rates are 75 euro net, plus VAT for a technician hour and 180 euro net, plus VAT for a development hour (e.g. EMS adjustments).

5. Delivery

5.1. The delivery period begins on the day of the order confirmation, but not earlier than an agreed down payment has been received on our bank account or required information and documentation has been provided to us by the client.

5.2. The delivery period is extended in cases of force majeure or obstacles beyond our control by the duration of the effects of force majeure or said obstacles. The beginning and end of such obstacles will be communicated to the client without delay. In individual cases, agreed contractual penalties fall away altogether.

5.3. Upon the occurrence of such obstacles, we are entitled to withdraw from the contract in whole or in part. Any advance payments made will be refunded immediately and free of charge.

6. Shipping

6.1. Shipping is always at the expense and risk of the client. We are only liable for damages if gross negligence on our part can be proven.

6.2. We shall only take out transport insurance on order and for the account of the client.

6.3. If the shipment is delayed due to circumstances that are within the control of the client, the client shall bear all additional costs resulting therefrom. In addition, in the event of default of acceptance, we are entitled, subject to a grace period of 14 days, to subject the goods to court, to dispose of them otherwise or to withdraw from the contract and to claim damages for non-performance.

7. Transfer of Risk

7.1. The risk is transferred to the client as soon as the item to be delivered has been loaded onto the means of transport. If services are provided in the client's area, the risk shall pass to the client upon notification of the completion.

7.2. If there is any delay in dispatching or delivering the shipment for reasons for which we are not liable, the risk shall pass to the client as soon as we have informed the client that the consignment is ready for delivery.

8. Retention of title

8.1. We reserve ownership of the delivery item until full payment of the purchase price has been received. The client may only resell the delivery item in the regular operation of his company.

8.2. In case of seizure, confiscation or other disposal by a third party, the client must inform us immediately and bear the intervention costs for the enforcement of our property.

9. Return agreement

9.1. Power storage systems can be returned to BlueSky Energy upon expiry of their service life in accordance with Battery Directive § 15. The returned system will thus become the property of BlueSky Energy.

9.2. The transport costs incurred from the return to BlueSky Energy are borne by the sender.

9.3. For the return of power storage systems in accordance with § 15 para 2 Battery Directive, BlueSky Energy charges a fee of € 0.25 per kg net weight.

10. Warranty

10.1. We provide a 6-month warranty for the conditional or commonly presumed characteristics of the object of delivery that the object can be used in accordance with the nature of the transaction or the appointment made. However, we do not offer a warranty for customary deviations in dimension, weight or quality that are tolerable according to the ÖNORMEN, EN or DIN standards.

10.2. Moreover, we do not guarantee a minimum number of charging and discharging cycles, insofar as it exceeds the number of cycles guaranteed by the manufacturer.

10.3. The client alone is responsible for compliance with legal or other regulations pertaining to the use of the delivery item.

10.4. Delivery items must be inspected by the client immediately after their acceptance and defects must be reported to us immediately in writing or by email upon their discovery. If the client omits to make this immediate notification, it may no longer assert any warranty claims or claims for compensatory damages on account either of the defect itself or of any misapprehension as to whether the delivery was free of defects.

10.5. In cases where we do give warranty, we shall – at our own discretion and within a reasonable period of at least three weeks – either exchange the defective article itself, or its defective components, for a defect-free article or defect-free components, or grant the client a reasonable reduction in price, or (unless the defect in question is a minor one) cancel the contract.

10.6. Exchanged or replaced parts become our property.

10.7. We shall not refund the costs for any actual or attempted remedying of a defect by the client or by any third party, unless we have agreed in writing or by email prior to the repair or attempted rectification of defects.

10.8. Warranty claims by the client are excluded if installation, user and operating instructions have not been observed, the delivery item is used improperly or the assembly and commissioning has not been carried out by licensed professionals. Moreover, warranty claims are excluded if the defect is due to external influences, chemical influences, overvoltage, conduct of third parties or force majeure or natural wear. Furthermore, warranty claims are excluded if foreign parts have been incorporated into the delivery item by the client.

10.9 We do not guarantee the compatibility and functionality of our power storage unit with existing or subsequently connected third-party systems such as controllers, energy management systems, inverters, wiring and the like, unless this has been, upon request, determined permissible by us in advance and the client has been certified in writing or by email.

11. Warranty

11.1. Any warranty provided by the manufacturer of the electricity storage system have no bearing on the contractual relationship between BlueSky Energy and the client.

11.2. However, BlueSky Energy may assist the client in processing its warranty claims.

12. Damages

12.1. Compensation for slight negligence is excluded. Incidentally, our obligation to pay compensation is limited to the actual damage and limited by the amount of the order total.

12.2. For damages caused by the installation of foreign parts, any and all liability is excluded, insofar as these foreign parts were not demonstrably recommended by us before installation.

12.3. BlueSky Energy cannot compensate for damages caused by incompatibility of the delivery item with connected components or third-party systems such as controllers, energy management systems, inverters, wiring and the like, unless BlueSky Energy has confirmed in writing the safety of the connection to such systems. It is incumbent on the client to have the compatibility clarified and confirmed before connecting said systems with their suppliers.

12.4. Claims for damages can only be asserted within six months of the date of notification of the damage.

12.5. When using the articles supplied by us, the client is obligated to strictly comply with all regulations, technical requirements, installation regulations, operating and user instructions, in particular all regulations governing the operation of electrical systems, which exist to protect against dangers.

13. Consent under data protection law

13.1. The client consents to BlueSky Energy processing and storing personal data such as name, address, email address, etc. This data is used solely for information regarding products and services of BlueSky Energy by post, email, newsletters and the like and shall not be disclosed to third parties. A legal or judicial obligation to provide information is exempted from this.

13.2. This consent may be revoked at any time in writing. To unsubscribe from the newsletter, an unsubscribe link accompanies each of these.

14. Final provisions

14.1. In the event of legal disputes arising from the contract, Austrian law is applicable, excluding UN sales law.

14.2. Regardless of the amount in dispute, the district court of Vöcklabruck is deemed to be the place of jurisdiction.

14.3. Should individual provisions of this agreement lose their validity, the remaining provisions shall remain unaffected.

These General Terms and Conditions are valid from 01.01.2019