

# GENERAL TERMS & CONDITIONS BLUESKY ENERGY

General Terms of Delivery of BlueSky Energy Entwicklungs- und Produktions GmbH, located at 4873 Frankenburg, Neukirchner Straße 15, for End Consumers/retail customers.

## 1. Scope of application

1.1. These terms of payment exclusively apply to our deliveries and services to end consumers 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.

## 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 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.

4.2. Payments are to be made with no deductions by free transfer to our bank account within 10 days of the invoice date, 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 to determine which payment claims or parts of claims submitted by the client are settled. 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 a 4% default interest, plus any dunning costs incurred.

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 case of default of acceptance, we are entitled, with the setting of a

14-day grace period, to legally deposit the delivery item, to otherwise dispose of it or to withdraw from the contract and 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, unless the choice of means of transport is made on behalf of and for the account of BlueSky Energy. If services are provided in the client's area, the risk shall pass to the client upon notification of 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 Ownership

8.1. We reserve ownership of the delivery item until full payment of the purchase price has been received.

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 warrant, in accordance with the statutory warranty provisions 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. If the statutory warranty provisions do not apply, we offer a 6-month warranty for the conditional or commonly presumed properties of the delivery item that it 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 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. 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.

10.5. Exchanged or replaced parts become our property.

10.6. 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.

10.7. 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.

10.8. 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. We shall only accept unlimited liability for damage, of whatever kind, to the extent that the client proves that we have caused this damage ourselves either intentionally or due to gross negligence. If the client proves that we have caused damage by slight negligence, our obligation to pay compensation is limited to the actual damage and otherwise limited by the amount of the total order.

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. 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 safeguard 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. The place of jurisdiction is the competent court stipulated in the Consumer Protection Act.

14.2. 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