

## **AGB**

### **General Terms and Conditions of Sale and Delivery of Smart Battery Solutions GmbH**

#### **§ 1 General**

1. The following Terms and Conditions of Sale and Delivery (hereinafter “T&C”) apply to all legal relationships between Smart Battery Solutions GmbH (hereafter “SBS”) and its customers, in particular contracts, quotes, deliveries and other services. Services, deliveries and quotes are made exclusively on the basis of these T&C. The T&C are considered binding upon the conclusion of a valid contractual agreement. Counter-confirmations from a contractual partner, even if they are attached, are expressly invalid if they contradict these T&C.

2. Deviating terms and conditions are only considered agreed if expressly agreed to in writing.

3. Descriptions of goods and products in SBS catalogs, on SBS website or in other advertising materials are subject to change and are non-binding. The conclusion of a contract requires written confirmation from SBS.

4. Quotes can be revoked by SBS at any time until they are accepted by the customer. Orders from the customer are only binding for SBS if confirmed in writing within two weeks or the goods have been delivered.

5. Partial deliveries and services are permitted provided they are economically feasible for the customer. The customer will be informed about partial deliveries with a reasonable lead time.

#### **§ 2 Pricing and payment**

1. Prices are ex works (EXW Incoterms 2020) plus applicable statutory VAT.

2. SBS reserves the right to adjust prices at its reasonable discretion with a notice period of 4 weeks in advance if, after concluding the contract, there is a reduction or increase in the total costs of at least 2%, particularly raw material prices, production costs (especially energy and personnel costs), currency fluctuations and collective bargaining agreements. The scope and reason for the adjustment will be provided to the customer and upon request substantiated by supporting documentation.

3. The customer commits to paying invoices within agreed payment terms after receipt of the invoice. After the payment period has expired, the customer will be in default without further reminder. Unless other payment terms have been agreed, invoices must be paid without deductions within 14 days of the invoice date.

4. A discount deduction is only permitted if agreed in writing.

5. The credit of the payment to a bank account of SBS is decisive for punctual payment.
6. The customer can only offset claims that are undisputed or legally confirmed.

### **§ 3 Delivery and delivery times**

1. Deliveries are ex works (EXW Incoterms 2020) unless otherwise specifically agreed and confirmed in writing.
2. Delivery times and delivery dates are expressly confirmed in writing in the quote or order confirmation.
3. If non-compliance with delivery deadlines is due to force majeure, such as war, riots, mobilization, strikes, lockouts, pandemic situations (e.g. Covid-19 pandemic) or similar events, and particularly due to delivery, production and/or shipment disruptions, the deadlines are extended accordingly. This also applies in the event of a delay in delivery from SBS suppliers. SBS is entitled to withdraw from the contract without compensation if such events result in a delivery delay of more than six weeks and delivery is not foreseeable or to be expected.
4. Compliance with delivery deadlines is subject to the customer providing materials, documents and approvals punctually. If these provisions are not met in a timely manner, the deadlines will be extended accordingly.
5. The delivery time is deemed to have been met if the goods have left SBS premises by the agreed delivery date or the goods have been made available for collection by the agreed delivery date and the customer has been informed that the goods are ready for shipment.
6. The customer is in default of acceptance if the goods have been made available on the agreed date, the availability has been communicated to the customer and the customer does not accept the goods despite an explicit request. The legal regulations regarding delay in acceptance apply.
7. If acceptance is delayed, a charge of 1% of the net order value per month, up to a maximum of 5%, is payable by the customer for storage costs. The reimbursement for additional expenses, in particular transport costs, remains unaffected. The contracting parties are at liberty to provide evidence of higher or lower storage costs.

### **§ 4 Special regulations for parts provided by customers**

1. Order-related manufacturing equipment such as devices, testing and control gauges and additional parts (raw materials, accessories, add-on and built-in parts) provided by the customer are sent free of charge. SBS will only check the compliance of the equipment and parts provided by the customer against the contractual specifications or drawings or samples provided by the customer based on an explicit agreement.

2. Parts provided by the customer must correspond to the specification and agreements (e.g. dimensional accuracy and material) and must be delivered by the customer free of defects. The customer is responsible for ensuring that the parts provided are in perfect condition. Additional costs that arise due to faulty parts are borne by the customer. Costs arising due to faulty parts supplied by the customer after parts have been processed by SBS cannot be passed on to SBS. Parts not useable due to production waste are to be replaced by the customer free of charge.

3. Any obvious defects in parts provided by the customer will be notified to the customer as soon as they become apparent.

4. If parts provided by the customer are not delivered on time, are insufficient or defect, SBS is not liable for the resulting delays. SBS is entitled to stop further production until proper and sufficient additional parts have been provided by the customer. In such cases, the customer is obliged to reimburse SBS for any additional costs incurred. Other consequences of default remain unaffected.

5. Production equipment and additional parts will be handled and stored with the same care as SBS property. SBS is not liable for random loss or deterioration of the manufacturing equipment and supplied parts. The customer's equipment and supplied parts that are no longer needed will be returned at the customer's expense or if not collected by the customer within a reasonable time stored at the usual cost and disposed of with reasonable notice.

## **§ 5 Warranty**

1. Customers are obliged to report any visible defects in writing immediately, at the latest, within one week. Any undetectable defects must be reported to SBS in writing immediately at the latest within one week of being detected.

2. In case of a faulty delivery SBS is entitled, to repair or to replace two times at its discretion, and three times in cases of particularly complex goods from a technical point of view as well as goods modified according to special requests.

3. Claims by the customer for recovery of costs, in particular transport, travel, labor and material costs, for reparation are excluded if the expenses increase due to relocation of the goods to a location other than the customer's site.

4. If there is only a minor breach of contract, particularly minor defects, the customer has no right to rescind the contract.

5. Claims for supplementary performance expire twelve months from the start of the statutory limitation period. The same applies to rescission and diminution.

6. Claims for damages by the customer due to a material defect are excluded in accordance with Section 7.

7. Unless otherwise agreed, claims by the customer due to defects in used goods are excluded. Excluded from this are liability for damages resulting from the violation of a guarantee or from injury to life, body or health, for intent and gross negligence, as well as liability for fraudulent concealment of defects

### **§ 6 Ownership rights and retention of title**

1. SBS reserves all ownership rights and copyrights to all illustrations, drawings, etc. produced by SBS. These documents may neither be made accessible to third parties nor used commercially without prior consent. They must be returned to SBS immediately upon request.

2. SBS reserves ownership of the goods until the price, including value added tax, interest and additional costs, has been paid in full. The customer is obliged to treat the goods with care during the retention of title. The customer must inform SBS immediately in writing of any access by third parties to the goods, of compulsory enforcement measures, as well as of any damage or destruction of the goods. The same applies to a change of ownership of the goods and any change of address of the customer. The customer must support SBS to the best of his ability, free of charge, in enforcing SBS property rights, by providing all necessary documents and declarations. The customer must reimburse SBS for all damages and costs that arise from a breach of the obligations in this section and from necessary intervention measures against third-party access to the goods.

3. The customer is revocably entitled to resell the goods in the ordinary course of business and assigns to SBS all receivables totaling the invoice amount from the resale to a third party. SBS reserves the right to collect the debt if the customer does not properly meet his payment obligations and defaults on payment.

4. The customer is revocably entitled to combine, mix and process the goods in the ordinary course of business (§ 946 ff. BGB). If the goods are processed, SBS acquires co-ownership of the new item in proportion to the value of the goods delivered by SBS. The same applies if the goods are processed or mixed with other items that do not belong to SBS.

5. The authorizations according to § 6 numbers 3 and 4 are revocable if the customer does not properly fulfill his obligations towards SBS, particularly if the customer defaults on payment and does not meet his payment obligations within 14 days of a request for payment, or the customer does not treat the reserved goods in accordance with the contractual regulations (including these General Terms and Conditions).

6. SBS is entitled to rescind the contract immediately and to demand the return of the respective goods if the customer is in breach of contract, in particular in the event of late payment including a grace period of two weeks. Furthermore, if an obligation in accordance with the previous paragraph is breached, SBS is entitled to rescind the contract and to demand the return of the goods if SBS can no longer be expected to adhere to the contract, even after weighing up the interests of both parties. After declaration of rescission, SBS is immediately entitled to inspect the goods, to demand their return and to have these made available.

### **§ 7 Claims for damages and statute of limitations**

1. Claims for damages by the customer, regardless of the legal basis, due to breach of duty arising from a contractual obligation or unlawful act are excluded. This does not apply in cases of mandatory liability, for example under the Product Liability Act, in cases of intent, gross negligence, injury to life, body or health or due to material breach of contract. Claim for damages for material breach of contract is limited to the contract-typical and foreseeable damage, unless there is intent or gross negligence or liability is due to injury to life, body or health.

2. If the customer is entitled to claims for damages, these will expire, to the extent permitted by law, within twelve months of the claim arising. In the case of claims for damages under the Product Liability Act, the statutory statute of limitations applies.

### **§ 8 Place of jurisdiction and applicable law**

1. These T&C shall be governed by and construed and enforced in accordance with the laws of Germany and excluding the provisions of the United Nations on contracts for the international sale of goods (CISG).

2. The sole place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is the registered office of SBS. Regardless of this, SBS is also entitled to take legal action at the customer's registered office.

### **§ 9 Miscellaneous**

1. The remaining parts of the contract remain binding even if individual provisions are legally invalid. This does not apply if adhering to the contract would represent unreasonable hardship for one party.

2. Subsidiary agreements, promises, changes or additions to the general terms and conditions must be in writing. This also applies to changes to this formal provision.