

**General Terms and Conditions of Sale, Delivery and Provision of Services  
of BMZ POLAND SP. Z O.O. with its registered office in Gliwice**

Version from 04.11.2024

**§1  
Definitions**

The terms used in these General Terms and Conditions of Sale, Delivery and Provision of Services have the following meanings:

- 1) **BMZ** – BMZ Poland sp. z o.o. with its registered seat in Gliwice, ul. Alberta Einsteina 9, entered in the Register of Entrepreneurs by the District Court in Gliwice, 10th Commercial Division of the National Court Register, KRS entry no.: 0000353823, NIP 631-26-09-837, initial capital of PLN 400,000.00 paid up in whole.
- 2) **Parties** – BMZ and the Contractor altogether.
- 3) **Contractor** – an entity, with which BMZ has concluded an agreement, under which it has undertaken to transfer ownership of the Goods, has produced the Goods, has provided a Service or has provided another non-monetary benefit to the Contractor. The Contractor is a legal person or an organizational unit without legal personality, regardless of who the Owner is and where it has its registered office, or whether it conducts business activity in the territory of the Republic of Poland or abroad. The term Contractor also means a natural person, who conducts business activity – subject to §2 points 7 and 8 of these General Terms and Conditions.
- 4) **Agreement** – an obligation relationship between BMZ and the Contractor, based on which BMZ has undertaken to transfer the ownership of the Goods, produce the Goods, provide the Service or fulfil another non-monetary benefit in favour of the Contractor, of which the General Terms and Conditions are always a part.
- 5) **Goods** – a material item, the ownership or possession of which BMZ undertakes to produce for or transfer to the Contractor, or a service, i.e. an actual or legal act, that BMZ undertakes to perform for the Contractor.
- 6) **GTC** – these General Terms and Conditions of Sale, Delivery and Provision of Services of BMZ.
- 7) **Request for Quotation** – an invitation sent to BMZ by the Contractor for the purpose of BMZ presenting an offer.
- 8) **Order** – an offer submitted by the Contractor to BMZ or by BMZ to the Contractor, containing, among others, such information as: the name of the Goods, their quantity and price, which is submitted once or as part of existing agreements, including a framework agreement, who produced the Goods, provided the Service or fulfilled another non-monetary benefit for the Contractor.
- 9) **Order Confirmation** – BMZ's statement on acceptance of the Order, which may also contain information such as: price of the Goods, total value of the placed Order, delivery date, payment and delivery terms.

## **§2** **Scope of Application of GTC**

1. GTC are an integral part of all agreements concluded as a result of receiving or submitting Requests for Quotation, commercial offers, Orders and Order Confirmations between BMZ and the Contractor. These GTC shall also apply if the Agreement was concluded by BMZ not by accepting an offer, but through negotiations, in the form of a tender or auction, or if BMZ, after receiving an offer, commenced the performance of the Agreement. GTC also constitute an integral part of each BMZ offer, Order and Order Confirmation.
2. Arrangements other than contained in GTC shall be considered null and void, unless mutually agreed upon by the Parties in writing.
3. In the event of any conflict or inconsistency between the contents of GTC and the Agreement, the provisions of the Agreement shall prevail.
4. Only these GTC shall apply to the Parties. Any other contractual documents (excluding other BMZ contractual documents), particularly contractual documents of the Contractor, shall not apply, even if they have not been explicitly or implicitly rejected by BMZ. The Contractor undertakes to BMZ not to use any of its own general agreement templates during the term of the Agreement.
5. The conclusion of the Agreement or commencement of its performance cannot be deemed as an express or implied acceptance of the Contractor's agreement template. The rule referred to in the preceding sentence also applies when BMZ, having information about the existence of the Contractor's agreement template different from the GTC, concludes the Agreement.
6. These GTC are made available to the Contractor before concluding the agreement, when BMZ submits a commercial offer, as well as during its execution, which the Contractor confirms by placing an Order, as well as receiving an Order Confirmation, submitting a Request for Quotation and receiving the Goods.
7. These GTC do not apply to the Agreement concluded between BMZ and the Contractor, who is a natural person concluding the Agreement directly related to its business activity, if it results from the content of the Agreement, that it is not of a professional nature for this natural person, resulting, in particular, from the subject of business activity conducted by this person, made available on the basis of the provisions on the Central Registration and Information on Business.
8. These GTC do not apply to any Agreement concluded between BMZ and the Consumer referred to in Article 22 of the Polish Civil Code, which stipulates, that the Consumer is considered to be a natural person concluding a legal act with an entrepreneur that is not directly related to their business or professional activity.
9. If any Agreement (including a Framework Agreement) has been concluded between BMZ and the Contractor, the provisions of which are to apply to entities in any way related to the Contractor (in particular, in capital or personal terms), these GTC also apply to the Agreements concluded between BMZ and this entity.
10. The GTC also apply when the Contractor, before concluding the Agreement or during its performance, refers to the content of its own standard agreement templates or, during the term of the Agreement, adopts or changes its own standard agreement templates.

### **§ 3** **Offers and Orders**

1. The Agreement is concluded by placing an Order by the Contractor and its acceptance (Order Confirmation) by BMZ, or by BMZ commencing the performance of the Agreement, as well as in other modes permitted by law.
2. The lack of BMZ's response to the Order cannot be deemed as an Order Confirmation by BMZ, even if BMZ remains in permanent business relations with the Contractor placing the Order.
3. In the event, that the characteristics/properties of the Goods are not specified or are incomplete in the Agreement, the characteristics/properties contained in the last Order, in which this information is contained, shall apply. In the absence of the above information, the characteristics/properties of the Goods determined at the discretion of BMZ shall apply. Subsequent deviations from any of the characteristics/properties referred to above are only permissible after agreements between the Parties concluded in writing, under pain of nullity.
4. All information, technical data, designs, samples, cost estimates, etc. provided by BMZ to the Contractor are the property of BMZ and a business secret of BMZ and may not be made available by the Contractor to third parties without the prior consent of BMZ, granted in writing under pain of nullity. The Contractor has the right to use them only in accordance with the purpose specified in the Agreement or, if the Agreement is not concluded within 30 calendar days from the date of sending the Order or Request for Quotation to BMZ, the Contractor is obliged to destroy them, unless BMZ requests their return. In the event of a return request, the Contractor is obliged to return such information to BMZ immediately at its own expense.
5. The Contractor places Orders in documentary form, under pain of nullity, and BMZ confirms acceptance of the order for execution within a maximum of 10 business days, also in documentary form, under pain of nullity, unless BMZ commences the execution of the Agreement. If the Contractor places an Order and does not receive an immediate Order Confirmation from BMZ, the Contractor shall be bound by the Order for a period of 10 days from the date of placing the Order. After this deadline, the Order will be deemed as not accepted.
6. The Order should include:
  - a detailed description of the Goods, including quantity, type, specific features of the ordered Goods,
  - data of the Contractor referred to in §9 point 5 of GTC
  - personal data of the person placing the Order

## § 4

### Delivery Period and Location.

1. The place of delivery (place of performance) of the Goods is the address indicated in the Agreement. Unless another place is indicated, the place of delivery of the Goods is the registered office of BMZ.
2. From the moment the Goods are left at the place of delivery for collection, the risk and danger associated with accidental loss or damage to the Goods are transferred to the Contractor.
3. If the Goods are sent to the Contractor's address via a carrier, the Goods are delivered at the Contractor's expense and risk, unless other Incoterms rules apply in their currently applicable wording.
4. Damage to or loss of the Goods delivered to the Contractor does not release the Contractor from the obligation to pay the price for the Goods, unless the Parties have agreed otherwise under the agreed Incoterms.
5. The release and collection of the Goods shall take place at the delivery location.
6. The binding delivery date is the date specified in the Order Confirmation sent by BMZ. If the delivery date has not been specified by BMZ, it will be specified at a later date. The indication of a delivery date by the Contractor does not create an obligation for BMZ.
7. If BMZ is unable to perform the Agreement within the specified time, it shall inform the Contractor of the circumstances causing the delay or default, at the same time indicating a new deadline for delivery of the Goods. The new delivery date, thus indicated, is binding on both Parties, and the Contractor may not change it without the prior consent of BMZ, granted in writing under pain of nullity.
8. Delay in delivery of the Goods does not release the Contractor from the obligation to accept the Goods, pay the price on time and fulfil other obligations arising from the Agreement.
9. The acceptance by the Contractor of a delayed or late delivery of Goods or Goods with defects without immediate reservations shall be deemed as a waiver of any claims arising in this respect.
10. If the Contractor anticipates difficulties in receiving the Goods, meeting the payment deadline or other circumstances occur, that could negatively affect other obligations of the Contractor resulting from the Agreement or the GTC, the Contractor should immediately notify BMZ thereof. In such cases, BMZ has the right to withdraw from the Agreement within 30 calendar days from receiving this information. In the event of withdrawal from the Agreement, BMZ is still entitled to all claims for indemnity related to the breach of the obligation by the Contractor.
11. In the event of BMZ withdrawing from the Agreement in connection with the situation described in paragraph 10 of this Section, the Contractor shall be obliged to immediately return to BMZ, at its own expense and risk, all Goods previously transferred to the Contractor by BMZ within a period not longer than 2 business days.
12. Unless the Parties agree otherwise, deliveries of the Goods shall be carried out in whole. This does not, however, exclude the possibility of partial delivery of the Goods or delivery of the Goods in instalments.

13. Upon receipt of the Goods, the Contractor is obliged to check the contents of the delivery of Goods in the presence of a BMZ employee or the carrier and, under penalty of losing claims, to determine any quantitative or qualitative deficiencies, which should be immediately noted on the transport documents within 5 calendar days from the date of delivery. The Contractor is also obliged to inspect the Goods for any hidden defects. If the Contractor fails to inspect the Goods within 5 calendar days and does not inform BMZ thereof, it shall lose the right to invoke defects against BMZ and any related rights.

14. In the event of quantity shortages, the Contractor may only demand delivery of the missing quantity of Goods, or a correction of the invoice by the value of the missing Goods. In the event of detecting defects in the Goods, the Contractor shall only be entitled to exercise its warranty rights in the form of repair of the Goods.

15. BMZ also operates under applicable legal provisions, including the Act of 24 April 2009 on Batteries. The Parties agree that, if the end user reports the need referred to in Art. 31 of the Act of 24 April 2009 on Batteries, BMZ will inform the Contractor of this fact and request that it collects the Goods from the end user and transports them to the Contractor's registered office within 30 days from the date of receipt of the report. In the event of failure to execute or untimely execution of the notification from the end user by the Contractor, the Contractor agrees to be charged for the costs of transporting the Goods from the end user to the BMZ office. The Parties agree, that the obligation in question applies to BMZ only in relation to the end user, who is based in the territory of the country and applies only to the quantity of Goods that was transferred to them. The Parties agree, that the term Goods, within the meaning of this provision of the GTC, shall include only used car batteries or used industrial batteries, with the exception of lead-acid batteries.

16. BMZ declares that, if the subject of the agreement is Goods only in the form of portable batteries (including cells), BMZ sells them only on the condition, that they will be used in the territory of the Republic of Poland, only for industrial, professional purposes or for use in electric vehicles or for their export outside the country. The Parties agree that, in the event of a breach of this obligation, the Contractor shall be obliged to pay BMZ, at the first request, a contractual penalty in the amount of the applicable product fee for each 1 kg of portable batteries (including cells) sold. BMZ has the right to claim damages exceeding the amount of the penalty referred to above in accordance with general principles.

17. If the Contractor or the end user, referred to in the provisions of the Act of 24 April 2009 on Batteries, notifies BMZ of its willingness to transfer used Goods in the form of a portable battery, BMZ undertakes to indicate to it an entity, that will be ready to accept the used or defective portable battery.

18. BMZ is not obliged to collect any used Goods in the form of batteries or to indicate an entity ready to collect them if they have been exported from the territory of the Republic of Poland.

## **§ 5**

### **Return of Goods, Cancellation of Order**

1. The Contractor has the right to cancel the Order only if it obtains the prior consent of BMZ, expressed in writing under pain of nullity.

2. The physical return of the delivered Goods may only take place after the Contractor has notified BMZ in advance and then received written confirmation/acceptance of the return from BMZ, expressed in writing under pain of nullity.
3. The condition for accepting the return of Goods, that has been recognized by BMZ, is that the Goods are undamaged, not processed by the Contractor and that they are returned in their original and undamaged packaging.

## **§ 6** **BMZ's Liability**

1. BMZ is liable for failure to perform or improper performance of any obligation arising from the Agreement, including the GTC, which arose exclusively from the wilful misconduct of BMZ, including BMZ employees or persons cooperating with BMZ – regardless of the form of cooperation with BMZ.
2. In cases, where the liability of BMZ cannot be limited or excluded due to legal provisions, the liability of BMZ for any case of non-performance or improper performance of the Agreement, including the GTC, shall be limited to the price of the Goods, to which the non-performance or improper performance relates.
3. In no event shall BMZ be liable for damage in the form of lost profits (Latin: *lucrum cessans*), including loss of profit, revenue and any other indirect losses (damages) of the Contractor or third parties.
4. BMZ is liable for a dangerous product towards third parties and the Contractor, in particular its employees, under the terms and conditions set out in applicable law.
5. Any liability of BMZ employees or persons cooperating with them for any actions or omissions towards the Contractor is excluded, unless they occurred exclusively due to wilful misconduct.

## **§ 7** **BMZ's Liability Under Warranty and Guarantee**

1. Unless otherwise agreed in the Agreement, BMZ provides a warranty period of 12 months from the date of sale.
2. BMZ is liable for failure to perform or improper performance of any obligation arising from the warranty, which arose exclusively from the wilful misconduct of BMZ, including BMZ employees or persons cooperating with BMZ – regardless of the form of cooperation. In order to exercise warranty rights, the Contractor is obliged to deliver the Goods to the registered office of BMZ. BMZ will consider the complaint within 21 days of reporting or delivering the Goods to the BMZ seat (in the absence of remote monitoring). BMZ will remove warranty defects within 30 days from the date of confirmation of acceptance of the warranty claim, but reserves the right to extend the repair period, if it is necessary to perform special verification tests or if spare parts are unavailable. BMZ may provide the Contractor with replacement Goods for the repair period, which will be treated as fulfilment of the obligation to repair the Goods.
3. If BMZ has issued a guarantee, it is valid only between BMZ and the Contractor.

4. In no event shall BMZ be liable for damage in the form of lost profits (Latin: *lucrum cessans*), including loss of profit, revenue and any other indirect losses (damages) of the Contractor or third parties.
5. The liability of BMZ for non-performance or improper performance of the warranty towards the Contractor or third parties is limited only to the actual loss, if the mandatory legal norms provide for it. With the same reservation, BMZ shall not be liable for any lost profits of the Contractor or third parties.
6. BMZ excludes any statutory warranty ( in particular Section 2 of the Civil Code, Art. 556 and subsequent) in relation to the Goods.
7. Any change/modification of the Goods, use contrary to its intended purpose or not in accordance with the instructions for use will result in the loss of warranty rights. The loss occurs at the moment of introducing a change/modification or removing the seal securing the Goods.
8. If the complaint is accepted, the warranty period is extended by the time of warranty repair. In the event of delivery of a replacement product, the warranty period is extended by the time from the notification to the delivery of the replacement product.

## **§ 8**

### **Intellectual Property Rights and Industrial Property Rights**

1. BMZ does not transfer any intellectual property rights to the Contractor.
2. BMZ does not transfer any industrial property rights to the Contractor.
3. BMZ does not grant the Contractor any licenses, either paid or free of charge.

## **§ 9**

### **Prices, Invoices and Payments**

1. Price lists do not constitute an offer and are for information purposes only.
2. The price is specified in the BMZ Order Confirmation.
3. Payment for the delivered Goods shall be made within 14 calendar days from the date of issue of the VAT invoice by BMZ, unless the Parties have agreed otherwise in the Agreement.
4. The data to be included on the VAT invoice is the one indicated in the Order or the Agreement.
5. The invoice must contain data enabling full identification of the Parties, i.e., in particular, their full names, addresses, tax identification number and other elements required by generally applicable law.
6. The Contractor can deduct its liabilities against BMZ only after receiving a written consent from BMZ, under pain of nullity.
7. BMZ reserves, that the ownership title to the Goods shall pass to the Contractor only upon payment of the full price specified in the Agreement.
8. In the event of delay in payment of BMZ due amounts, statutory interest is due at the

maximum amount specified in the Civil Code.

9. In each case of delay in payment for the Goods, BMZ is entitled, at its discretion, regardless of the other provisions of these GTC, to demand the return of the delivered and unpaid Goods or to demand payment of the price. If BMZ exercises its right to request the return of the Goods, the Contractor is obliged to immediately return all unpaid Goods in an undamaged condition (including loading, transport and unloading at the place indicated by BMZ), at its own expense and risk, within 4 days from the date of the request.

## **§ 10**

### **Confidentiality, Information Protection**

1. The content of the Agreement concluded by both Parties constitutes a trade secret and shall not be disclosed to third parties without prior permission from the other Party.

2. All data and information provided in connection with the concluded Agreement are confidential and constitute a trade secret of BMZ and, for this reason, the Parties undertake not to disclose their content to third parties, unless the other Party has previously consented to the disclosure of information to third parties. The consent must be in writing, otherwise it shall be considered as null and void. The Parties shall use the information obtained in the course of the Agreement only for the purpose of performing the Agreement.

3. All trade information provided by BMZ, particularly technical data, drawings, drafts, prototypes and models (including properties of the ordered Goods, their documentation, software and other valuables, such as knowledge and experience related to the Goods), apart from commonly available information, shall not be disclosed to third parties, as it constitutes business secret. In the event of concluding a non-disclosure agreement (NDA) between the Parties, the provisions of the NDA agreement shall take precedence over the provisions of this document.

4. The Contractor's employees and persons ordering the Goods also agree to observe this secret, in accordance with the Act of 16 April 1993 on Fighting Unfair Competition (consolidated text, Journal of Laws of 2003, No. 153, item 1503 with further amendments). In the event of concluding a non-disclosure agreement (NDA) between the Parties, the provisions of the NDA agreement shall take precedence over the provisions of this document.

5. BMZ retains all the rights to documents and information mentioned above, including copyrights or intellectual property and industrial property rights (patents, utility models, etc.).

## **§ 11**

### **Force Majeure**

1. Force majeure, within the meaning of these GTC, is an external event caused by elementary forces of nature or by the actions of third parties, which BMZ did not foresee and which it could not prevent with the application of rational and economically reasonable measures, or which BMZ could not neutralize with rational economic or technical means, with reasonable diligence, or which BMZ could not take into account due to its rarity, such as war, threat of war and cataclysms, economic crisis, sudden collapse of stock exchange quotations, significant change in raw material prices (i.e. above 20%).

2. Force majeure suspends the enforcement of obligations by Parties over its duration. As far as possible, the Parties shall immediately communicate information to the other Party and align their obligations, in good faith, to the changed situation resulting from said force majeure event.



3. BMZ shall be released, in whole or in part, from its obligation to deliver the ordered Goods, and the Contractor shall be released from the obligation to pay for them, if the ordered Goods cannot be produced due to a delay caused by force majeure. In this case, BMZ is entitled to withdraw from the Agreement. BMZ may exercise the right to withdraw from the Agreement within 60 calendar days from the date, on which it received information about the occurrence of force majeure. In the event of withdrawal from the Agreement, the Contractor shall not be entitled to any claims against BMZ.

## **§ 12** **Re-export**

1. The Contractor shall not sell, export or re-export, directly or indirectly, to the Russian Federation, or transfer for use in the Russian Federation any Goods delivered under or in connection with this Agreement.
2. The Contractor shall take all steps to ensure, that the purpose set out in point (1) is not compromised by any third party involved in the supply chain, including downstream retailers.
3. Any breach of points (1) and (2) will constitute a material breach of the Agreement, and BMZ will be entitled to claim all types of damages, including, but not limited to:
  - (i) Termination of the Agreement.
  - (ii) Charging liquidated damages in the amount of 20% of the total value of the Agreement or the price of the exported Goods, at its sole discretion.
4. The Contractor is obliged to immediately inform BMZ of any problems with the application of point (1) and/or (2), including related actions of third parties, that may violate the provisions of point (1) and/or (2). At the request of BMZ, the Contractor shall present and make available materials confirming the fulfilment of the conditions specified in points (1) and (2).

## **§ 13** **Final Provisions**

1. Polish law, in particular the provisions of the Polish Civil Code, shall be exclusively applicable to the interpretation and application of these GTC or the Agreement concluded between the Parties.
2. With respect to the contractual relationship between BMZ and the Contractor, the provisions of the United Nations Convention on Contracts for the International Sale of Goods, concluded in Vienna on 11 April 1980 (Journal of Laws of 1997, No. 45, item 286, with further amendments) shall also apply.
3. For all disputes arising from these GTC, in connection with the GTC or the Agreement concluded between the Parties, the exclusive competent court shall be the court with jurisdiction over the registered office of BMZ.
4. The rights arising from the Agreement may not be assigned to third parties without the prior consent of BMZ, expressed in writing, under pain of nullity.
5. In the event of ineffectiveness or invalidity of individual provisions of the GTC or the Agreement, the remaining provisions shall remain in force. The Parties shall seek to take steps towards reaching an agreement on the provision which will replace the invalid or ineffective provision while reflecting its meaning and purpose in the most faithful way possible.
6. Without a written consent from BMZ, otherwise null and void, the Contractor shall not use the name, trademarks nor trade names of BMZ. If the provision set out above is not observed,

BMZ has the right to seek compensation from the Contractor on general terms.

7. By concluding the Agreement with BMZ, including sending a Request for Quotation or Order to BMZ, the Contractor unconditionally accepts the GTC.

8. For the avoidance of doubt, it is agreed, that all declarations between the Parties must be made in documentary form under pain of nullity, unless these GTC provide otherwise.

9. The Parties shall notify themselves in the event of any change of address, subject to effective correspondence delivery to the last specified address on the 15th day from the day of sending the registered letter.

10. All changes, corrections and additions to Requests for Quotations, Orders and Order Confirmations must be made in documentary form, under pain of nullity.