

*General Terms and Conditions*  
*Axitec Energy India Pvt. Ltd.*

All shipments, services, sales and quotations between Axitec Energy India Pvt. Ltd. ("Seller") and the costumer ("Costumer") of Products set forth herein shall be subject to these Terms and Conditions of Sale ("T&C"). Costumer acknowledges receipt hereof and accepts these Terms. Any additional or different terms or conditions contained in response hereto by Costumer or in Costumer's initial order and any assertions by the sales representative that are not expressly described in these terms and conditions of sale outside of these expresses terms and conditions are hereby rejected by Seller and shall be of no effect nor in any circumstances binding on Seller. Seller's acceptance of any order offered by Costumer in expressly made conditional on Costumer's assent to these Terms, and under no circumstances will any terms other than these Terms apply to Seller's sale of the Products.

**1. Definitions**

In these T&C, the following terms shall have the meanings hereunder assigned to them:

- 1.1. **"Contract"**: the written agreement on the sale of the Products and/or Services concluded by the Seller's acknowledgement in writing on the Customer's purchase order, which shall be deemed to incorporate these T&C.
- 1.2. **"Customer"**: the customer ordering Products and Services from the Seller.
- 1.3. **"Defects"** shall mean any manufacturing defect or nonconformity in the Products and shall include an error or flaw in the Product, affecting its performance and resulting from faulty design, materials or workmanship making the Products unusable from its intended use. However, for clarity, this shall only include manufacturing defect.
- 1.4. **"In writing"**: a physically or electronically embodied form of text communicated by one party to the other by letter, fax or electronic means (including email).
- 1.5. **"Order"**: the written Contract obtained by the Seller from its Customer by way of placing a purchase order for the purpose of sales and/or services of the Products on the Seller
- 1.6. **"Product(s)"**: the object(s) and/or services to be supplied and/or provided by the Seller to the Customer as per the Contract.
- 1.7. **"Services"**: the services to be provided by the Seller to its Customer as per the Contract.

In these T&C the headings are inserted for convenience only and shall not affect the construction of these T&C.

**2. Contract Formation, Amendments**

- 2.1. These T&C apply to all Product sold and Services provided by the Seller, except as otherwise agreed by the parties in writing. Customer's payment or acceptance of delivery shall be deemed acceptance of these T&C. The Customer further acknowledges that he/she is aware of the contents of and agree to be bound by these T&C.
- 2.2. All offers are non-binding and subject to change without notice, unless the offer is expressly declared as binding in writing.
- 2.3. A legal obligation only comes into existence as a result of a Contract signed by both parties, or upon commencement of rendering of Service by

the Seller in accordance with the Contract. The Seller can demand written confirmation of verbal acceptance of a Contract by the Customer.

- 2.4. A Contract between the Customer and the Seller comes into effect only on acceptance of a Customer order by the Seller or upon commencement of the provision of the contractual Services by the Seller.
- 2.5. The confirmation of the receipt of the purchase offer, which the Customer receives after submitting their order, does not constitute acceptance of the purchase offer.
- 2.6. All of the information provided by the Seller is valid at the time of making such a purchase offer, unless otherwise stated or agreed, as information, offers and prices are constantly updated by the Seller.
- 2.7. The Seller reserve proprietary rights and copyrights to illustrations, drawings, cost estimates, tools and other documents. This also applies to written documents that are identified as "confidential". The Customer requires the Seller's express written consent before they are transferred to third parties or used by third parties.
- 2.8. The Customer pledge to return or destroy all documents and information received in the context of the cooperation and all copies produced on request.
- 2.9. All information contained in general Product documentation and price lists shall be binding only to the extent that they are incorporated in the Contract in writing.
- 2.10. No amendment or change to the Contract shall be binding, unless agreed in writing between duly authorized representatives of the parties.

**3. Subject matter of the Contract, service changes**

- 3.1. The scope, type and quality of Products and Services is determined by the Contract signed by both parties or the Seller's order confirmation. Other information or requests only form part of the Contract if the parties agree to them in writing or the Seller have confirmed them in writing. Subsequent changes to the scope of services require written agreement or express written confirmation by the Seller.
- 3.2. Standard quality, quantity, weight or other deviations in particular are to be accepted by the Customer, even if they make reference to brochures, drawings or illustrations in their order, unless specifically agreed upon as a binding condition. In addition, technical deviations from performance data may occur, in particular in connection with colour differences, height and size.

**4. Price and Payment**

- 4.1. All prices are valid ex works unless otherwise agreed by the parties. All prices and remunerations shall be paid in Indian Rupees unless otherwise agreed by the parties which shall be exclusive of applicable taxes and duties, plus transportation costs, expenses, packaging, shipping and, if applicable, insurance of Products in transit.
- 4.2. Shipping of Products occurs exclusively against prepayment by the Customer unless otherwise

agreed by the parties. The Customer pledges to pay for the Products and allied Services immediately on discharging its duties under the Contract, provided no other agreements have been reached. Insofar as, in an exceptional case, no prepayment is due, payments shall, in the absence of any other agreement between the parties, be due immediately following performance of Service and receipt of invoice by the Customer and shall be payable without deduction within 14 (fourteen) days.

- 4.3. In the absence of a Contract, the Seller shall only accept bank transfers to the bank account stipulated in the contractual documents as a mean of payments.
- 4.4. The Customer is allowed to instruct third parties with fulfilling their commitment towards the Seller. If the third party performs in the same way as the Customer is obligated to perform towards the Seller, then the Seller shall accept the third-party service as the Customer's stipulated achievement.
- 4.5. Late payments of the Customer is subject to an interest charge of 18% (eighteen percent). This does not affect the right to assert claims for higher damages caused by default. The amount of interest recovered towards delayed payment of consideration would be excluding any applicable taxes. The same would be recovered separately at the applicable rates prevailing then.
- 4.6. If the Customer is in default of payment for longer than 14 (fourteen) calendar days or if insolvency proceedings or comparable proceedings under other legal systems are filed against the Customer's assets, the Seller shall be entitled to demand immediate payment of all accounts receivable against the Customer, to withhold all Products and Services to the Customers and to assert all reservations of proprietary rights.
- 4.7. In case the Customer does not pay the balance amount of the Products after delivery of the Products is made, and thus the order is cancelled, then the Seller shall forfeit the prepayment amount made by the Customer and Customer shall deliver the Product to the Seller within 15 (fifteen) days in the exact condition provided to the Customer at the entire cost of the Customer solely. In case the Customer does not deliver the Product back to the Seller within 15 (fifteen) days, then the Customer shall be liable to pay an interest of 24% (twenty-four percent) per annum to the Seller on the balance amount from the date of failure to pay the balance amount upto the date of receipt of the Product
- 4.8. Set-off entitlements may only be accorded by the Customer if his counterclaims are not contested or recognized as legally valid by the Seller. The Customer may only assign rights from this Contract to a third party with the Seller's prior written agreement. The Customer shall only be entitled to exercise a right of retention or plead the defence of non-fulfilment of Contract within the respective contractual relationship.
- 4.9. Circumstances occurring after entering into the Contract which significantly influence the calculation basis in an unforeseeable manner and which lie outside the Seller's sphere of influence

shall entitle the Seller to adjust the agreed price to a level exclusively designed to address these circumstances. This applies in particular to changes in legislation, official measures, price increases on the part of the Seller's upstream suppliers and currency fluctuations.

- 4.10. In the event of the Seller receiving unfavourable information concerning the financial circumstances or creditworthiness of the Customer following execution of the Contract, the Seller is, if advance payment is not due in any case, entitled to make performance and delivery dependent on an appropriate advance payment on the part of the Customer or the provision of security in the form of a deposit or bank guarantee.

## 5. Confidential Information, Use of Software, Intellectual Property Rights

- 5.1. All non-public, confidential or proprietary information ("**Confidential Information**") disclosed by the Seller (whether before or after the formation of the Contract) relating to the Products and Services (as the case maybe), the Contract or the business of the disclosing party, shall remain the property of the Seller and the Seller reserves all proprietary, copyright, patent and other intellectual property rights therein.
- 5.2. Confidential Information received by the Customer shall not, without the prior written consent of the Seller, be (a) used for any purpose other than the one for which it is provided, or (b) communicated to any third party. The Customer shall inform the Seller without undue delay of any unauthorized disclosure or use of Confidential Information and shall reasonably assist the Seller in the recovery and prevention of any further disclosure or distribution of such Confidential Information.
- 5.3. The Seller shall, not later than the date of delivery of the Products, provide the agreed information necessary for the Customer to install, commission, operate and maintain the Products. The Seller shall not be obliged to provide manufacturing drawings for the Products or spare parts to the Customer.
- 5.4. The Customer shall divulge the Confidential Information to its employees or other third parties only on a need to know basis. He/She/It shall instruct these persons on the obligations set out in this Clause 5.
- 5.5. Customer acknowledges the ownership of and the validity of the Seller's trademarks, brand names, trade names, copyrights, designs, trade secrets, inventions, know how or other intellectual property (collectively, "**Intellectual Property**"). The Customer will not reverse engineer, reverse compile or reverse assemble the Products in whole or in part, and Customer will not develop: (a) any products incorporating any of the Seller's Intellectual Property; nor (b) any improvements or applications related to the Intellectual Property. Customer agrees not to apply for the registration of Intellectual Property in any country, nor otherwise take any action inconsistent with the Seller's rights in the Intellectual Property. Unless with the prior written consent of the Seller, the

Customer will not use in any way (including in Customer's letterhead or presentation cards) Seller's trade or business names or trademarks, nor will the Customer represent to third parties that it can make binding commitments on behalf of the Seller. Customer will immediately notify the Seller in writing of any potential infringement of Seller's Intellectual Property by other parties, or of any claim or possibility that the Intellectual Property infringes the rights of others, and will cooperate with Seller to protect Seller's Intellectual Property against infringement. Subject to the above, Customer is hereby authorized to use trademarks and trade names owned by the Seller in connection with the Products, but only for the limited purpose of using the Products.

**6. Packaging; Delivery; Risk transfer**

- 6.1. The Products shall be packed in a customary fashion and according to commercial usage at the expense of the Customer.
- 6.2. The mode of shipping and the carrier and transportation route shall be selected by the Seller, provided the Seller has not received other written specifications from the Customer. With regard to selection of mode of shipping, the Seller shall only be held liable in case of gross negligence.
- 6.3. Risk is transferred to the Customer as soon as the Product is made available to the Customer at the Seller's warehouse or such other place as stipulated by the Seller.
- 6.4. Seller shall take out any insurance policies requested by the Customer for the Customer's account on the cost and expense of the Customer.

**7. Time for delivery; Delay**

- 7.1. The Seller will deliver the Product by the delivery date agreed in the Contract. If the parties, instead of specifying the date for delivery, have specified a period of time within which delivery shall take place, such period shall commence as soon as the Contract is formed and all agreed preconditions have been satisfied, such as official formalities, payments due at the formation of the Contract and security of payment.
- 7.2. Any information with regard to time of delivery and performance is non-binding unless otherwise declared binding by the Seller in writing. Delivery deadlines begin with the dispatch of the order confirmation by the Seller, but not before all commercial and technical questions between the Customer and the Seller have been clarified and the Customer has fulfilled all duties incumbent upon him.
- 7.3. Delivery and performance deadlines shall be extended by the period of time in which the Customer is in default of payment under the terms of the Contract and as long as circumstances for which the Seller is not responsible or the Customer prevents the Seller from rendering delivery of Product or Service, and they shall be extended by a reasonable time subsequent to the end of the delay. These circumstances include Force Majeure, shortages of raw materials on

relevant commodity markets, delays caused by the Seller's suppliers and industrial disputes. Deadlines shall also be considered as extended by any such time in which the Customer breaches the contract by not meeting his obligation to cooperate (e.g. by not providing an item of information, not supplying a provision or failing to provide staff etc.).

- 7.4. In the event of the parties subsequently agreeing to perform different or additional services which affect the agreed deadlines, these deadlines shall be prolonged by a reasonable period of time.
- 7.5. Any reminders and setting of deadlines on the part of the Customer must be in the written form to be considered effective. A period of grace granted must be of an appropriate nature. A period of less than 2 (two) weeks shall only be deemed appropriate in cases of special urgency.
- 7.6. The Seller is entitled to make partial deliveries of the Products, inasmuch as the delivered parts can be reasonably used by the Customer.
- 7.7. Agreed delivery deadlines shall be regarded as having been adhered to if the Products have been handed over to the transportation carrier on the agreed date of delivery or as soon as the Seller has been informed of their actual readiness for shipment.
- 7.8. In the event of a failure to deliver to the Seller on the part of its supplier, despite careful selection of its supplier by the Seller and the order complying with the requirements of the Seller's delivery obligation, the Seller shall be entitled to full or partial withdrawal vis-à-vis the Customer, if the Seller indicates its non-delivery to the Customer and, insofar as this is admissible, offer to assign the claims the Seller is entitled to enforce against the supplier to the Customer. The Seller shall not bear any liability for slight negligence in its selection procedure when it comes to choosing its suppliers.
- 7.9. The Seller's place of business is the performance location, provided no other location is stipulated or agreed.

**8. Retention of title**

- 8.1. For supplies outside the territory of India - It is hereby declared that the Customer and the Seller hereby agree and acknowledge that the title to the Products passes on to the Customer at the port of shipment and the provision of Services thereafter and/or requirements of a final acceptance test will not impact the Customer's rights and liabilities under this Contract.
- 8.2. For supplies within India - It is hereby declared / Customer and Seller hereby agree that the title to the Products passes on to the Customer on loading the carrier and the provision of Services thereafter / requirements of a final acceptance test will not impact the Customer's rights and liabilities under the Contract"
- 8.3. If the Products are processed or reshaped with other goods not belonging to the Seller, then the Seller will acquire co-ownership of the new object in the ratio of the value of the Products to the other processed objects at the time of processing.

**9. Liability for Defects**

- 9.1. The Products and Services have the agreed properties and condition and are suitable for the contractually agreed use or, where no agreement exists, are fit for normal use. Without explicit Contract, an exclusive guarantee is only provided concerning freedom from Defects reflecting state-of-the-art technological standards. The Customer bears sole responsibility for the suitability and safety of the Products and/or Services for a Customer application. No consideration shall be given to an insignificant reduction in quality.
- 9.2. Claims under the guarantee are excluded in case of the following:
  - 9.2.1. if the Products are not stored, installed, operated or used properly by the Customer or a third party,
  - 9.2.2. in case of natural wear and tear,
  - 9.2.3. if the Product is not maintained properly,
  - 9.2.4. if the Product is used in conjunction with unsuitable equipment,
  - 9.2.5. in case of damage caused by repairs or other work carried out by third parties which were not expressly approved by the Seller.
- 9.3. In case of material Defects, the Seller reserve the right to remedy said Defects first. Remedying of the Defect shall be realised according to the Seller's choice by correction of the Defect, by delivery of Products and/or Services which are free of the Defect or by the Seller indicating options for avoiding the effects of the Defect. At least two attempts to remedy a Defect must be accepted. The Customer shall accept an equivalent new or earlier version of the Product which is free of the Defect as a remedy if this can be considered reasonable for the Customer. Any expense incurred by the Customer within the framework of the subsequent performance for the removal of the defective Products and the installation or mounting of the reworked or delivered Products that are free of Defects are to be borne by the Customer.
- 9.4. If the Customer incurs expenses for the removal of the defective item within the scope of the subsequent performance, the Seller shall bear these proven costs up to the net price of the concrete defective product. However, at all time, the Seller is required to be contacted for removal of any defect, the Seller shall not entertain any claim or payment if the Customer engaged a third party for removal of such defect.
- 9.5. The Customer shall support the Seller with regard to the analysis and remedying of Defects by, in particular, accurately describing problems which occur, informing the Seller comprehensively and granting the Seller necessary time and opportunity to remedy problems.
- 9.6. The Seller can demand payment if additional costs are incurred by the Seller due to the Products or Services being altered or incorrectly operated. The Seller can demand reimbursement of expenses if no Defect is found. The burden of proof lies with the Customer shall apply correspondingly.
- 9.7. If expenses, particularly transport, travel, work and material costs, increase during the attempt to remedy the Defect, the Seller are not obliged to

bear these costs if expenses increase due to the fact that the delivery item was subsequently transported by the Customer to a location other than the delivery address, unless this transport complies with its contractual and intended use. Personnel and material costs which the Customer claims due to deficiencies relating to the Services must be charged on the basis of net cost prices.

- 9.8. Faulty Products may only be returned to the Seller for the purpose of subsequent performance following prior written consent in compliance with the Seller's existing rules for this purpose. The risk of accidental destruction or deterioration of the Products is only transferred at the time of acceptance by the Seller at such place as may be specified by the Seller. The Seller is entitled to reject returned Products without prior consultation.

**10. General duties of the Customer**

- 10.1. The Customer is obliged to have all of the Products and Services checked by a competent employee either immediately after delivery or performance or upon accessibility and to immediately lodge a complaint in writing regarding recognizable and/or identified Defects, including a detailed description of the fault.
- 10.2. The Customer acknowledges that the Seller is dependent on his/her/its comprehensive support in order to provide the Products and Services in a successful and timely manner. The Customer is therefore obliged to provide all information required to render Services appropriately in a timely and thorough manner.
- 10.3. The Customer is obliged to test the Products and Services thoroughly to ascertain their suitability for use in the specific situation and subject them to a functional test prior to installation or further delivery, etc. This also applies to delivery items which the Customer receives free of charge or under the terms of the guarantee.
- 10.4. The Customer shall take adequate precautions in case the Seller partially or completely fails to provide the Products and Services in an appropriate manner (e.g. through fault diagnosis, examination of results on a regular basis, emergency planning).

**11. Limitations of use, exemption**

- 11.1. Unless otherwise expressly agreed in writing, the Products are not intended for use in life-sustaining or life-supporting devices and systems, nuclear plants, for military purposes, aeronautics and aerospace applications or other purposes where a malfunction of the Product can be reasonably expected to lead to life-threatening situations or cause catastrophic consequential damage.
- 11.2. Where the Customer violates Clause 11.1 herein, this occurs at the Customer's own risk and is the sole responsibility of the Customer. At first request, the Customer agrees to release the Seller from any liability resulting from the use of Products in contexts of this nature and indemnify and hold the Seller harmless to the fullest extent, including with regard to the costs of appropriate legal defense.

**12. Anticipated non-performance and termination**

- 12.1. Notwithstanding other provisions in these T&C regarding suspension, each party shall be entitled to suspend the performance of its obligations under the Contract, where it is clear from the circumstances that the other party is not going to perform its obligations. A party suspending its performance of the Contract shall forthwith notify the other party thereof in writing.
- 12.2. The Customer can only demand the rescission of the Contract due to a delay in performance if the Seller is exclusively or predominantly responsible for the delay, unless after weighing up different interests, adherence to the Contract cannot be reasonably expected of the Customer due to the delay.
- 12.3. The Seller is entitled to terminate the T&C and the Contract with immediate effect if the Customer has provided incorrect information regarding his creditworthiness or definitively discontinued payments, or if proceedings have been filed against him/her/it for affirmation in lieu of an oath, if insolvency proceedings have been filed against the Customer's assets or comparable proceedings under a different legal system have commenced, or if an application to commence proceedings of this nature has been filed, unless the Customer pays in advance without delay. Moreover, the Seller is entitled to terminate the contractual relationship if the Customer defaults in any payment terms contrary to as provided under Clause 4 abovementioned.

**13. Data Protection**

- 13.1. The Seller shall process Customers data required for business transactions and statutory requirement with due consideration of data protection regulations if any in place from time to time. The Seller shall be entitled to identify the Customer as a reference Customer.
- 13.2. The Customer gives their consent that the Seller gathers information about the Customer from the usual credit agencies, to guard the Seller's rightful interests.

**14. Force Majeure**

- 14.1. Either party shall be entitled to suspend performance of its obligations under the Contract to the extent that such performance is impeded or made unreasonably onerous by Force Majeure, meaning any of the following circumstances: industrial disputes and any circumstance beyond the control of the parties including, without limitation, fire, war, extensive military mobilization, insurrection, requisition, seizure, embargo, restrictions in the use of power, currency and export restrictions, domestic or international financial market crash, demonetization, epidemics, natural disasters, extreme natural events, terrorist acts and defects or delays in deliveries by sub-contractors caused by any such circumstance referred to in this Clause. A circumstance referred to in this Clause whether occurring prior to or after the formation of the Contract shall give a right to suspension only if its effect on the performance of the Contract

could not be foreseen at the time of the formation of the Contract.

- 14.2. The party claiming to be affected by Force Majeure shall notify the other party in writing without delay on the intervention and on the cessation of such circumstance. If a party fails to give such notice, the other party shall be entitled to compensation for any additional costs which it incurs and which it could have avoided had it received such notice. If Force Majeure prevents the Customer from fulfilling its obligations, it shall compensate the Seller for expenses incurred in securing and protecting the Products.
- 14.3. Either party shall be entitled to terminate the Contract by notice in writing by a document signed to the other party if performance of the Contract is suspended under Clause 14.1 for more than 6 (six) 3 (three) months.

**15. Consequential losses; Total liability**

- 15.1. Notwithstanding any other provision in these T&C or the Contract, whether by way of indemnity or by breach of Contract, statutory duty, tort, negligence, Defects or otherwise, and whatever the cause thereof: a) Seller shall not be liable for loss of production, loss of profit, loss of use, loss of contracts, loss of data or for any special, consequential or indirect loss or damage of any nature whatsoever in connection with the Contract, and (b) the total overall liability of the Seller including but not limited to liquidated damages, shall not exceed 100% of the Contract price.
- 15.2. The limitations or exclusions of liability provided in Clause 15.1. shall however only apply to the extent permitted by applicable mandatory laws and shall not apply in case of gross negligence or willful misconduct.

**16. Export Control Clause**

- 16.1. The Customer is obliged to check and ensure to be compliant with the applicable national and international regulations of the export control law, when passing on the Products or rendered Services to third persons/party.
- 16.2. Before passing on the Products or rendered Services to third parties, the Customer is obliged to ensure, by appropriate checks and measures, that these actions do not infringe any embargo regulations.
- 16.3. Insofar as it becomes necessary due to possible investigations, the Customer must immediately provide the Seller with all information about the final-destination and recipient as well as the intended use of the delivered Products and Services upon request.
- 16.4. The Customer shall be solely responsible for making custom duty payment and other reacted fees or expense for export under the Contract.
- 16.5. The Customer indemnifies the Seller completely from all claims arising from the non-observance of the aforementioned export control obligations by the recipient.

**17. Written form**

All changes and addendums to the Contract require the written form to be considered effective. The parties shall comply with this requirement by transmitting documents in text form, particularly by fax or e-mail, unless other requirements exist for individual declarations. The written form requirement itself may only be revoked in writing.

**18. Disputes and applicable law**

- 18.1. Any dispute arising out of or in connection with the Contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by Arbitration in accordance with the (Indian) Arbitration & Conciliation Act, 1996 including any amendment or modifications in force from time to time, which rules are deemed to be incorporated by reference in this Clause. The seat of the arbitration shall be Mumbai. The arbitral tribunal shall consist of 1 (one) arbitrator. The language of the arbitration shall be English. The law governing this arbitration agreement shall be the law of India.
- 18.2. The Contract shall be governed and construed by the substantive law of India.

**19. Severability**

If any provision of these T&C or of a Contract shall be, or be found by any authority or court of competent jurisdiction to be, invalid or unenforceable in whole or in part, such invalidity or unenforceability shall not affect the other provisions or parts of such provisions of these T&C or of the Contract, all of which shall remain in full force and effect.

**20. Miscellaneous**

- 20.1. Costumer shall not assign this contract without the express prior written consent of Seller.
- 20.2. The failure of Seller to insist, in one or more instances, on performance by Costumer in strict compliance with the terms and conditions hereof shall not be deemed a waiver or relinquishment of any right granted hereunder with respect to any succeeding breach of the same or other provision hereof.
- 20.3. In case any terms or conditions of this Agreement should be or become unenforceable under applicable law, the remaining provisions, stipulations and conditions of this Agreement shall not be affected thereby.