

## General Sales Conditions of Enpay Transformer Components India Private Limited dated 01.01.2011

### 1. General

- 1.1. The object(s) and/or services supplied under these General Sales Conditions by Enpay to the customer/buyer is (are) hereinafter referred to as the product(s).
- 1.2. Product(s) manufactured and/or rendered by Enpay shall exclusively be provided in accordance with these General Sales Conditions unless the offer or the specific contract does contain any written regulations to the contrary.

General or standard purchase or other conditions of the customer, whether referred to in the inquiry or order of the customer or not, are under no circumstances and never applicable to the supply contract entered into between the parties.

- 1.3. All amendments of the contract, of these General Sales Conditions, specific warranties, supplementary agreements or of any other documents relating to a particular supply are valid only in written form if duly executed by such parties.
- 1.4. Any information and data contained in general product documentation, etc. and/or price lists, whether in electronic or any other form, are binding only to the extent that they are expressly included in the contract by reference.
- 1.5. Unless otherwise agreed by Enpay and the customer (hereafter also "the parties") in writing, the place of performance of delivery, services and payment for both parties shall be Enpay's domicile in India.

### 2. Effect of contract, severability

- 2.1. The first step towards a supply contract shall always be a formal written request (hereafter "inquiry") of the customer to Enpay.
- 2.2. By means of and together with such inquiry the customer will provide to Enpay all necessary details of the material description of the product, the electrical and mechanical measurements, all technical standards (European and/or national) to be applied, all technical and other quality requirements and specifications, all drawings and tables including all respective necessary documentation and other information relating to the product whether in paper or electronic form, as well as the trade terms and packaging requirements, all in order to enable Enpay to provide an offer for the requested product to the customer.
- 2.3. On the basis of all information contained in customer's inquiry as per para. 2.2 above Enpay will submit its written offer for the requested product to the customer. All prices contained in Enpay's offer shall be net prices, excluding transport, packaging, customs and excise like VAT, etc. insurance and the like.
- 2.4. Unless otherwise explicitly stated in writing in the offer itself, no such offer and/or part thereof shall be and/or become binding on Enpay upon receipt of a respective order from the customer. Any offer which according to its explicit terms exceptionally shall be binding, shall automatically and at once expire within a time limit of 20 days running from the date of the offer unless accepted by the customer in writing and without alterations, amendments and reservations.
- 2.5. All orders transmitted by the customer to Enpay following receipt of Enpay's offer are always subject to Enpay's explicit written approval, the so-called order confirmation. A supply contract between Enpay as seller and the customer as buyer shall only be deemed to be validly concluded in case of and upon Enpay's explicit written approval (order confirmation) to the order (see para. 2.4 subpara. 2 above).
- 2.6. Irrespective of whether or not reference to these General Conditions Sales Conditions is made in the offer, these General Conditions shall always become and be integral part of the supply contract entered into between the parties.

- 2.7. The terms and conditions of the order confirmation these General Sales Conditions shall supersede and prevail over all contradicting terms and conditions either in customer's inquiry or customer's order.
- 2.8. In case any of the terms and conditions agreed between the parties in the supply contract including these General Sales Conditions or part thereof should prove to be or become invalid, ineffective and/or unenforceable the parties will in good faith seek to replace same terms by other terms the content of which shall be nearest to the one of the invalid or ineffective clause. All other terms and conditions of the supply contract shall remain in force and effective.

### 3. Delivery and payment

- 3.1. Unless otherwise explicitly agreed between the parties in writing in the supply contract, Enpay shall sell the products to the customer exclusively on terms EX WORKS (Incoterms 2000). The customer is deemed to know the content of those trade terms.
- 3.2. Enpay will timely inform the customer in writing about the expected time of delivery.
- 3.3. The customer is exclusively responsible to take delivery of the products within max. two working days from the date of delivery as notified by Enpay.
- 3.4. Products of which delivery is not taken in time by the customer shall be stored by Enpay at the full and exclusive risk and costs of the customer at a place of Enpay's choice. Enpay is not responsible to insure such goods against any risk whatsoever, and assumes no liability for any adverse consequences of non-delivery by the customer.
- 3.5. The customer undertakes to upon delivery of the product and prior to any transport and/or use of the products to carefully examine and check or have examined and checked the product whether as to its quantity and quality it is in conformity with the supply contract.
- 3.6. Enpay will invoice the amount due under the supply contract to the customer at the date of delivery and the invoiced amount shall become due and payable according to the payment terms agreed on, irrespective of whether delivery by the customer is timely taken or not.
- 3.7. The payment must be made by the customer in full accordance with the payment terms agreed in the supply contract without any deduction, discount, etc. whatsoever. Customer's right to offset, compensate, deduct or withhold alleged claims (including all warranty claims) against Enpay's claim for any amount invoiced under the supply contract to the customer is explicitly excluded and deemed to be fully waived by the customer.
- 3.8. In case the parties keep a current account any balance drawn of such current account in favour of Enpay shall become due and payable within a time limit of 8 business days from the date of drawing of such balance, unless objected to by the customer in writing prior to the expiry of such time limit.
- 3.9. In case where payment against invoice is agreed between the parties all invoiced amounts are payable latest within 30 days from the invoice date. Default interest shall be 5 % of the invoiced amount.

### 4. Limited warranty for defects

- 4.1. Enpay warrants that the goods are free of material and/or manufacturing defects. The warranty does under no circumstances extend to hidden defects. The warranty period is one year from delivery of the products.
- 4.2. After delivery of the work the customer shall as soon as appropriate according to the usual business practice but not later than 10 business days after delivery check and examine or have checked and examined the quality of the product and notify Enpay in writing of defects, if any.

The written notice shall contain a detailed description of the defect.

- 4.3. Failing full and detailed notification within the time limit set above, the customer shall be deemed to have forfeited his right to have the defects remedied by Enpay under the warranty.
- 4.4. For third party products no warranty is granted. For such products shall apply exclusively the respective warranty of the respective manufacturer, which shall be referred to in the offer. Enpay's warranty is limited to defects only becoming manifest under the conditions of operation provided for in the contract and in case the product is used for and in line with its specific function and purpose.
- 4.5. In case of warranty cases, Enpay in its sole discretion is entitled to either repair the defect or to substitute new parts or products for the defective parts or products. The customer's right to rescind the contract or to reduce the purchase price is explicitly excluded.
- 4.6. The warranty excludes damages and/or losses due to transport, ordinary wear and tear, defective maintenance, failure to observe operating and/or assembly instructions, over-use, unsuitable maintenance and/or treatment of any kind, chemical and/or electrolytic effects, defective construction and/or assembly work not carried out by Enpay and any other grounds that are not Enpay's responsibility.
- 4.7. If the customer requires possible repair works to be performed in its own factory, Enpay will provide the spare parts for such repair of the defect. In that case all displacement or travel costs at the applicable rates for after-sales-service shall be at the customer's sole charge. Excluded from the warranty for new products are all parts subject to ordinary wear and tear.
- 4.8. Enpay shall only be obliged to correct defects if the customer has complied with all duties imposed on the customer by contract and by law. In particular the customer shall not have the right to withhold the agreed payments on the grounds of a pending warranty claim (see para. 3.7 above).

## 5. Liability

- 5.1. Enpay shall be exclusively liable for delivery of the goods in a condition consistent with the contract and for the performance of its warranty obligations. Enpay's liability in all cases and under all possible circumstances shall be limited to acts of wilful or grossly negligent misconduct or behaviour.
- 5.2. Save as otherwise stated in these General Sales Conditions, Enpay shall not be liable for consequential and/or indirect damages or losses, such as for instance but not limited to financial or economical consequences of loss of production, loss of profit, loss of use, loss of contracts or business, contractual penalties or for any other consequential and/or indirect losses whatsoever.
- 5.3. The amount of damages in the contractual currency shall in all cases and under all circumstances be limited to the net invoice value of the products delivered by Enpay to the customer under the respective contract.

## 6. Force majeure

- 6.1. Enpay is not liable for a failure to perform any of his obligations insofar as Enpay proves
  - that the failure was due to an impediment beyond his control such as for instance but not limited to act of god, act of government, war, act of terrorism, strike (whether declared or not), civil commotion, breakdown of energy supply or machinery, natural catastrophe or disaster, etc.;
  - that Enpay could not reasonably be expected to have taken the impediment and its effects upon his ability to perform to account at the time of the conclusion of the contract;

- and that Enpay could not reasonably have avoided or overcome it or at least its effects.
- 6.2. Enpay shall, as soon as practicable after the impediment and its effect upon his ability to perform became known to Enpay, give notice to the customer of such impediment and its effects on his ability to perform. Notice shall also be given when the ground of relief ceases.
  - 6.3. The ground of relief due to force majeure takes effect from the time of impediment or from the time notice is given.
  - 6.4. A ground of relief under this clause relieves Enpay from damages, penalties and any other contractual sanction; further it postpones the time for performance for such period as may be reasonable, thereby excluding the customer's right, if any, to terminate or rescind the contract.
  - 6.5. If the ground for relief subsists for more than three months from the time of the impediment or from the time notice is given or in general for longer than a reasonable period, either party shall be entitled to terminate the contract in writing with immediate effect.

## 7. Miscellaneous

- 7.1. Substantial changes in raw material prices or any substantial increase in foreign exchange rates becoming effective after the contract has been validly concluded between the parties shall entitle Enpay to renegotiate the originally agreed contract price. The customer in considering the increase raw material prices and the change in foreign exchange rates hereby undertakes to in good faith and considering the circumstances submitted by Enpay renegotiate the original contract price and agree to a new reasonably increased contract price.
- 7.2. If the customer for reasons other than expressly stipulated in this agreement, unilaterally cancels, terminates or rescinds the contract prior to Enpay having started the manufacturing process, the customer shall be deemed to be in breach of contract and shall under all circumstances be and remain obliged to pay and liable for 50 % of the net contract price as liquidated damages. If any such termination, rescission or cancellation of the contract occurs after Enpay has started the manufacturing process, the customer shall pay and be liable for 100 % of the net contract value.
- 7.3. It is understood between the parties that as a rule Enpay produces and sells the products on an Ex Works (Incoterms 2000) basis. It is also understood that to take out marine or other insurance cover attaching from the time of delivery is exclusively customer's obligation.
- 7.4. Unless otherwise agreed in writing to the contrary between the parties, partial delivery and – the case given – partial shipment are permitted.

## 8. Governing law, place of jurisdiction

- 8.1. Any supply contract entered into between the parties shall be exclusively governed by Indian substantive law.
- 8.2. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply to any such supply contract.
- 8.3. The parties will attempt in good faith to promptly resolve through amicable negotiations any claim or dispute arising out of or relating to any such supply contract. In case of such claim or dispute high ranking representatives of the parties shall within the shortest period of time possible meet at least once and will attempt in good faith to resolve such dispute. For such purpose either party may request the other to meet within fifteen (15) days at a mutually agreed upon time and place.
- 8.4. All claims between the parties as to validity, interpretation and performance of any supply contract shall be exclusively brought by both parties before the competent Courts of Vadodara, India. However, Enpay shall also be entitled to seize the competent Court at the domicile of the customer.