

GENERAL SALES CONDITIONS  
OF THE LIMITED LIABILITY COMPANY KERNEL B.V.  
IN VELP, THE NETHERLANDS  
CHAMBER OF COMMERCE GELDERLAND  
REGISTRATION NR. 0907999

## General

In these conditions following is understood;

Seller: Energoavia / Kernel B.V.;

Buyer: a natural or legal body who places the order to supply goods;

Parties: seller and buyer;

Goods: all those material objects and goods which may be handled by parties and all forms of service, excepting those cases as laid down in these conditions;

Agreement: the sales agreement as laid down by parties including these general sales conditions.

## Art.1 Application

1. The present terms and conditions shall apply to each and every offer, tender and agreement between parties to which user has declared the present terms and conditions applicable, insofar as parties have not explicitly deviated from the present terms and conditions in writing.

2. Any possible terms of purchase and other conditions handled by buyer do not align seller and will be only valid provided they have been explicitly agreed upon in writing.

## Art. 2 Agreements

1. All offers and tenders will be free of obligation and goods can be sold in the meantime under certain circumstances even if a validity was mentioned, unless explicitly stated otherwise.

2. The agreement will be valid after written confirmation of seller or when a start has already been made with the realization of the agreement. Any written or oral agreements, appointments or conditions made with any of seller's staff or intermediaries can be recalled within 5 days by the representative person as laid down at the Chamber of Commerce.

3. In case of differentiation between the buyer's order and the written confirmation of seller, the seller's confirmation will be binding solely.

4. If there is no denial of the correctness of the order confirmation within 5 days after date of signing, parties will be committed hereby. This also applies to any supplements, amendments, changes and other appointments.

5. Seller is authorized to demand prepayment or a payment guarantee, and in anticipation thereof, to postpone the execution or partial execution of the agreement. If prepayment should not be done, or if the guarantee should not be given according to seller's reasonable expectations, seller has the right to dissolve the agreement, by means of a written declaration and without judicial intervention, which will not affect seller's possible right of damage nor will it entitle buyer to compensation.

6. All goods will be sold and delivered taking into account prevailing tolerances, quantity and weight, unless explicitly agreed upon otherwise.

### Art. 3 Delivery Conditions

1. The delivery conditions will be noted approximately and will therefore not count as a deadline; if seller should default he will have to be held liable. Liability will be determined after a reasonable term has been allowed. If the period of liability has expired without seller having delivered goods, buyer has the right to dissolve the agreement in writing. As long as seller has not received such a written confirmation of dissolution, seller is entitled to the delivery.

2. In case the terms of delivery are exceeded, or in case the agreement is dissolved by buyer as laid down in previous article, buyer is not entitled to claim any damage on seller. Seller has the right to adjust the delivery conditions, should any necessary data for the execution of the agreement not be received.

3. In case of used goods or second-hand goods, buyer has the right to inspect at his own costs or to have inspected these goods before delivery or during loading.

4. Should buyer not use his right to inspect goods, it will be expected that goods are delivered in good condition and according to the measurements, specifications and weight as agreed upon and as indicated on the corresponding packing list.

5. Seller has the right to suspend the delivery if circumstances arise of such a nature that fulfilment of the obligations becomes impossible or can no longer be reasonably demanded of seller. Under circumstances will be understood those situations of force majeure rendering fulfilment or timely fulfilment of the obligations impossible, such as natural disasters, fire, strikes or lock-outs, war, mobilisation, state of siege, military operations of any kind, blockades, import or export restrictions, as well as extraordinary economic changes, government acts due to which the execution of the agreement should be forbidden or hindered, non-observance of suppliers or non-observance of the conditions made with seller, floods, breakdown either at seller's offices or at those companies supplying and revising material for seller, or any other circumstances hindering fulfilment of normal business in The Netherlands or in any country of origin and/ or transit for the goods and/ or materials.

6. If these circumstances last more than 2 months, either party is entitled to renounce its further obligations under the agreement in writing. As long as seller has not received a written notification of the dissolution, seller has the right to supply goods. In these circumstances neither party will have the right to demand any compensation for the losses caused to it by termination of the agreement.

#### Art. 4 Prices

1. Unless otherwise agreed upon seller's prices are ex works, exclusive VAT, packing, ex-stock, transport and transport documents, installation/ assembly, testing, insurance, and any duties or taxes the government may levy.
2. Devaluation of the Euro as well as any price increase which may occur between the moment of the order and the payment, give seller the right to change the agreed price accordingly, in this case the official Dutch closing rate on the day of receipt of payment by seller, will be used as the exchange rate and otherwise – on those days with no exchange dealing – the rates of the following trading day.
3. Charges in any kind imposed by governments after the offer has been made or during the implementation of the agreement, may be bought into account by seller.

#### Art. 5 Risks

1. Excluding those cases when parties have agreed otherwise in written form, goods will travel at buyer's account and risk. The moment the goods have left the outlet or the moment seller notifies buyer of time of delivery, will be considered the time of delivery.
2. The terms of delivery will be understood in correspondence with the most recently published 'incoterms 2000', in so far these do not deviate from this agreement or from conditions laid down by parties in writing.
3. All molestation risk will be at the expense of buyer.

#### Art. 6 Claims

1. Buyer should notify in writing the seller of any claims on delivery of the goods. If no claim is sent in, the buyer is considered to have agreed upon the execution of the agreement.
2. Any claim will not give buyer the right to suspend payment of that part of the sum that is not questioned.
3. Any appeal to a settlement will be consequently ruled out.
4. As a deviation from part 1 of this article, the term of the claim concerning hidden defects will start at the moment in time when these defects could have been supposed to be detected.
5. Following can not be considered reason to claim: small and unavoidable defects of colour, size, weight, quality and quantity as may be usual in the trade.
6. Buyer will always be obligatory to give the seller opportunity to investigate the claim and to provide seller with all necessary documents and/ or samples.

7. If claims are under consideration, this does not mean the claim is seen as rightful or timely.
8. When goods are fully or partially being used, goods are considered approved.

#### Art. 7 Liability

1. Buyer can not be held liable, excluding those conditions as laid down in this agreement, for:
  - any damage, of any kind, visible or not and any consequential damage, be it directly or indirectly, incurred by seller's faulty performance to meet the conditions of the agreement;
  - any company or any pursuing damage buyer may have due to faulty performance or due to any defect in goods;
  - any damage due to any advise, instructions, calculations, specification of usage or directions of usage, handling and assembly which seller or seller's employees may have been given to buyer.
2. In case, despite excluding all liability mentioned above and elsewhere mentioned in these general sales conditions, liability of the seller for any defects should be assumed, is it the sellers obligation to compensate the damage to an amount limited to the invoice of that part of agreement the defect was agreed upon.

#### Art. 8 Transport

1. If goods are ready for delivery by buyer and seller has notified buyer hereof, not taking into account means of transport agreed upon, buyer is obliged to fetch goods immediately. Should buyer fail to do so, seller has the right to store goods at the expense and risk of buyer, respectively to keep goods stored and to invoice seller, who cannot refuse invoicing due to delivery not taking place.
2. Buyer is obliged to unload goods as soon as transport reaches him. Should this obligation not be fulfilled, article 5.1 will apply.
3. Means of transport will be determined by seller.

#### Art. 9 Right of ownership/ reserved Right of Pledge

1. Supplied goods will remain property of seller until all obligations as noted in this or any related agreement have been fulfilled, even if goods have been used, reprocessed, handled or assembled in any other goods. Seller will always obtain right of ownership in proportion to the value of supplied goods in case of mixing, reprocessing or assembly in any other goods. Consequently, before payment buyer does not have the right to sell, lend or pledge goods to third parties.
2. Until full payment has been done buyer is obliged to insure goods against fire and any other risks that can be insured and to handle goods with care and proper identification of our goods.
3. Buyer is obliged to put at the disposal of seller at the first request, any goods not paid for. Buyer grants authorisation by this agreement for a third party,

appointed by seller, who will be authorized to enter the storage in order to retrieve the goods.

#### Art. 10 Intellectual property

All documents, films, photos, other sound and media, models, reports, advice, agreements, designs, sketches, drawings, software, or parts thereof, will remain property of seller and are at seller's disposal only. Buyer is obliged to refrain from any action which may violate seller's copyright act, patents or trademarks or licenses. Falsifications, reproductions or reprints are forbidden.

2. Buyer is obliged to keep confidential any information and any knowledge or information concerning the execution of the agreement which may have been developed by seller in due course.

#### Art. 11 Payment

1. Should no other term have been set, an invoice and/or claims will expire 14 days after due date. Buyer will be considered to be in default after this set period or any other judicial term decided upon, that is without any injunction or proof of default.

2. Seller has the right to settle any invoice or claim with those invoices and claims seller should have from buyer at any firm that may belong to the concern Kernel B.V./ R.A.G. Mondeel Holding B.V., regardless the legal foundation.

3. Should buyer remain in default of payment within the set period mentioned in article 1, seller has the right to levy an interest rate on the amount due at that moment, any rights of seller remaining in full force. The calculation of the interest will be equal to the statutory interest rate. The percentage will be equal to the statutory interest rate, surcharged by 4%.

4. Any obligations buyer has on seller will be immediately claimed if following circumstances should apply to buyer: suspension of payment, bankruptcy, liquidation of or transferral to third parties of the company, legal restraint is laid down or if attachment of property has been effected.

5. Any payment seller receives will be used to reduce the costs (judicial or extrajudicial) as laid down in following article, thereafter the costs of interest and finally the invoice and/or claim with the longest standing, notwithstanding anything else buyer may indicate.

6. Should payment be partial, seller has the right to invoice partially.

#### Art. 12 Costs

Any possible costs, including accounts-, bailiff- and barrister costs, judicial as well as extrajudicial, are included that have been made by seller in order to fulfil the obligations of buyer will be in account of buyer. The extrajudicial costs will amount to 15% of the claim with a minimum of €700,00 for which no proof is needed, whereby right of payment and further compensation of seller will remain in full force; this will be accountable from that moment in time when the claim is taken on by third parties regardless buyer being informed thereof.

#### Art. 13 Guarantee

1. Seller's guarantee will expire in following cases:

- \* mistakes which are totally or partially due to any provisions of the law concerning the quality or type of material used or concerning manufacturing;
- \* changes and/ or reparations buyer or a third party should make during the guarantee period at his own initiative;
- \* if buyer does not, or does not properly or timely, fulfil any of the obligations that may ensue from this agreement or any relating agreement.

#### Art. 14 Dissolution

Seller has the right to suspend the fulfilment of the obligations under this agreement or to dissolve the agreement in writing and without any judicial intervention, in the event that client does not fulfil or does not fully fulfil his obligations resulting from the agreement, or if seller learns of circumstances giving good ground to fear that the client will not fulfil his obligations, or in the event client's company is wound up, attached, declared bankrupt, or if suspension of payment is granted, hereby user always retains the right to claim damages.

#### Art. 15 Third Parties

Should any transaction be made between seller and two or more third parties, these parties will each be liable for the complete fulfilment thereof.

#### Art. 16 Legal Force

The conditions laid down in this agreement will remain in force if seller's company should change fully or partially it's name, legal form or owner.

#### Art. 17 Applicable law

1. For all transactions, to which the conditions are applicable, including any foreign transactions and any pursuing legal relation, Dutch law shall apply.
2. The conditions of the U.N. Sales treaty, concluded on 11 April 1980, will only be applicable if these will not be in conflict with the conditions of this agreement.
3. In all cases, parties agree that the location for the fulfilment of all obligations resulting from this agreement will be seller's premises.
4. The headings of the articles named in this agreement are only meant as expedient and have no meaning for the interpretation of the articles.

#### Art. 18 Disputes

Any disputes between parties, including those as seen only by one party, will have exclusive jurisdiction at the District Court in Arnhem, nevertheless seller shall be entitled to submit the dispute to the court deemed competent by the law or by treaty.

**Art. 19 Conversion**

Should any condition mentioned in this agreement and applicable to client be annulled, this condition will be replaced by a valid condition to the same effect. The validity of the remaining conditions of this agreement will remain unchanged.

**Art. 20 Interpretation**

The present terms and conditions are made up in the Dutch language and have been translated with the utmost care into the English, Russian and German language. In case of disputes with regard to the interpretation and purpose of these terms and conditions, the Dutch version of these general terms and conditions will prevail.