

# General Terms of Sale

## Dyneon GmbH

**1. Validity:** The sale of our products and other services is subject exclusively to the following General Terms of Sale, unless otherwise agreed. Divergent purchasing terms of the purchaser's are herewith expressly rejected. These terms of sale are deemed to have been accepted without reservation by the purchaser, even if he has previously raised objections to them, at the latest when he takes delivery of our products or accepts our services. Any other agreements that deviate from these terms of sale are only valid with our express prior consent in writing for every individual contract. These terms of sale apply only in relation to enterprises as defined in § 14 of the Civil Code (BGB).

**2. Offers:** Our offers are subject to prior sale. Samples and specimens are intended as additional information and are not binding. We reserve the right to deliver up to and including 10% more or less than the ordered quantity.

**3. Prices:** Unless otherwise agreed, the prices are calculated on the basis of the current price on the day of delivery or performance plus the statutory rate of value-added tax. The quantity established by us applies to the calculation of the prices. In the case of deliveries of goods the prices are quoted ex factory or warehouse and include our standard packaging charges, unless otherwise agreed. If it has been agreed that the goods shall be delivered freight paid, the freight charges shall be paid as far as the purchaser's local station and do not include carriage from there to the purchaser's premises. Any additional expenses that are incurred because the purchaser stipulates a particular form of delivery (e.g. express goods, fast freight, air freight) shall be borne by the purchaser. Unless otherwise agreed, the purchaser shall pay the delivery costs.

**4. Dispatch; Passing of risks:** The goods are always dispatched at the purchaser's risk. The risk passes to the purchaser as soon as the goods are handed over to the forwarding agent, at the latest when they leave our factory or warehouse or, in the case of drop shipments when they leave our supplier's factory or warehouse.

**5. Delivery:** Delivery is carried out in accordance with the standard specification or the specifications agreed. We shall be entitled to effect partial shipments. If acceptance of the goods has been arranged within a specific period, acceptance shall be distributed evenly over the entire period, unless expressly agreed otherwise.

**6. Delivery times:** The delivery times quoted by us represent the probable dates of delivery which we shall endeavour to observe.

Agreed delivery dates are only binding if all details of the order are clarified in advance and the purchaser duly fulfils all his obligations. If a delivery date that has been expressly agreed in writing is not observed due to our fault, the purchaser will grant us an appropriate extension period in writing. If we still fail to deliver during this extension period, the purchaser is entitled to withdraw from the sales agreement. Any compensation claims for delay are subject to the provisions of Section 12.

Circumstances or events beyond our control that make deliveries delayed, impossible or unreasonably difficult, such as war, intervention by sovereign powers, natural disasters, accidents, traffic breakdowns, operational stoppages, shortages of raw materials and power, strikes and lock-outs, even if they occur at our suppliers, release us from our delivery obligations for the duration of the disruption plus an appropriate set-up time. If it appears that the disruption will not come to an end within a reasonable period of time, we are entitled to withdraw from the contract either in full or in part without any obligation to deliver at a later date.

If the purchaser defaults on acceptance or culpably fails to comply with other obligations, we are entitled to demand damages including the payment of possible additional expenses. We reserve the right to bring other claims.

**7. Payments:** Our invoices are payable without deduction within 30 days of the date of the invoice or with 2 % discount within 10 days of the date of the invoice. Payments shall be considered to have been made on time once the amount has been received by us and is at our unrestricted disposal. Payments to our sales representatives are only permissible if the sales representative is in possession of a written authorisation to collect payments. Checks will be accepted as conditional payment only. Payment by bill of exchange is not acceptable.

If the payment period is overdrawn or the full amount is not paid in time, the purchaser shall be considered to be in default, even if no reminder is sent, at the latest 30 days after receipt of the invoice. As soon as the purchaser is in default, we are entitled, without prejudice to any other claims, to charge interest on arrears at a rate of 8 % over the current base rate in accordance with § 247 of the Civil Code (BGB).

If the purchaser is in default or if there are good reasons to doubt his ability to pay, we are entitled to demand immediate payment of all receivables from him and/or to demand that he lodges security in advance for all deliveries, to hold back outstanding deliveries from this and from other agreements either in part or in full or, after an appropriate extension period set by us has expired without payment having been made, to withdraw from all existing agreements.

The purchaser can only offset undisputed or legally proven claims and can only exercise a right of retention in respect of claims arising from the same contract.

**8. Property rights:** The goods supplied remain our property until the purchase price and all other existing or future claims from the transaction have been paid in full (goods under reserve). The purchaser is entitled to sell the goods under reserve in the course of his normal business as long as he meets his contractual obligations to us. He is not allowed to pledge the goods or use them as security; he must notify us without delay of any infringement of our property rights by third parties. If the purchaser does not fulfil his contractual obligations to us, we are moreover entitled to demand the return of the goods under reserve; in this respect the purchaser has no right of possession.

At the time of the purchase of the goods under reserve, the purchaser assigns to us all claims against his customers and all secondary rights that arise from the sale of the goods. He is entitled to collect payments from the claims he has assigned to us until such right is cancelled. The purchaser is bound to inform us upon request of the extent of his claims and the names of his debtors.

If the goods under reserve are processed, we rank as the manufacturer and acquire a title to the new product without the purchaser's obtaining any claims from this transfer of rights. If the processing involves the use of other materials, we acquire a share of the ownership of the manufactured product proportionate to the ratio of the gross invoice value of the goods under reserve to that of the other materials. In the event of a combination, blending or mixing with another material where the latter is the main component, we acquire joint ownership of the new product in proportion to the gross invoice value of the goods under reserve.

If the value of the securities assigned to us exceeds our entire claims on the purchaser by more than 10 %, we are willing at any time and at our discretion to transfer the security rights back to the purchaser at his request.

**9. Information; Advice:** All verbal or written information about the suitability of our products for certain applications is given in good faith. This does not exempt the purchaser from the obligation to verify for himself the suitability of the product for his intended purpose.

**10. Trademarks:** Our trademarks may be used in connection with products manufactured by the purchaser only with our express written consent.

**11. Warranty claims:** Before making any warranty claims, the purchaser must first have duly complied with the obligations relating to product examination and the proper complaints procedures contained in § 377 of the Commercial Code (HGB). Warranty claims by the purchaser are not permitted if the defect was caused by the improper transport, storage, handling or processing of the goods supplied. Moreover, warranty claims are not permitted for natural wear and tear. If the purchased goods are legitimately defective, the purchaser is entitled at our discretion either to have the defect remedied or to receive a defect-free replacement. If this does not succeed in solving the problem, the purchaser is entitled at his discretion to demand a reduction in the purchase price or to be released from the contract. We accept liability for any fraudulent concealment of a defect and for the absence of warranted qualities. Otherwise claims for compensation in respect of defects are subject to the provisions of Section 12.

If the goods are expressly sold as sub-standard (not first quality), we shall be exempt from any liability whatsoever, unless the delivered goods vary from the contractual quality sold as sub-standard.

The period of limitation for warranty claims is 12 months from the delivery of the goods. This does not apply to the period of limitation in the event of recourse under §§ 478, 479 of the Civil Code (BGB).

**12. Liability:** We accept liability for intent and gross negligence. We are also liable for any culpable breach of major contractual obligations; however, if a breach of major contractual obligations is due to negligence, our liability is limited to the foreseeable damage associated with this type of contract. This does not affect our liability for culpable fatal or bodily injury or damage to health; this also applies to liability under the Product Liability Act („Produkthaftungsgesetz“) and the Medical Preparations Act („Arzneimittelgesetz“). Other claims for compensation are excluded.

**13. Place of performance:** The place of performance for our deliveries is the respective place of dispatch. The place of performance for the purchaser's payment obligations is Neuss.

**14. Applicable law; Place of jurisdiction:** All legal relations between the purchaser and us shall be subject exclusively to the relevant laws of the Federal Republic of Germany governing legal relations between domestic parties.

Any legal disputes shall come under the jurisdiction of the courts at our place of business. However, we can also take legal action against the purchaser in the courts of the purchaser's place of general jurisdiction.

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