

General terms and conditions of purchase of McKesson Europe

AG

(“terms and conditions of purchase”)

Valid from 12/09/2017

General

1. These terms and conditions of purchase will apply for the entire duration of the business relationship between McKesson Europe AG (referred to below as “**McKesson Europe**”) and the supplier or service provider (referred to below in general as the “**supplier**”), which accordingly also covers future orders and supplies of goods or the provision of services (referred to in general below as the “**goods**”). They will become a component of the contract with the supplier and any supplements to the contract or supplementary agreements.
2. These terms and conditions of purchase will only apply in relation to companies as defined by § 14 BGB and legal entities under public law.
3. The McKesson Europe terms and conditions of purchase will have exclusive application. Contrary terms and conditions applied by the supplier or terms and conditions which diverge from these terms and conditions of purchase will only be recognised if they have been expressly accepted. The acceptance of goods provided by the supplier or payment for such goods will not imply such recognition.

§ 1 - Orders

1. Orders placed by McKesson Europe will only be valid if they are placed by McKesson Europe in writing, by fax or by email and signed by at least two persons. Sentence 1 shall not apply in case an order is placed by McKesson Europe’s electronic procurement portal. The latter are furnished with a respective notation and will be valid without signature.
2. The supplier will be under an obligation to accept each order from McKesson Europe within 10 working days. The date of the order will be decisive.

§ 2 - Delivery, transfer of risk, retention of title, inspection for defects

1. Agreed delivery dates are binding and must be met in every case.
2. The packaging and contents of deliveries must comply with the individual statutory provisions at the place of fulfilment. Each shipment must be accompanied by the relevant consignment note without indication of prices. It must indicate the number of units which make up the complete shipment. The package which contains the consignment note must be clearly marked. If there is a change of article the consignment note must indicate that the new article is being delivered. All shipping documents must contain the order number.
3. The risk of accidental destruction, loss or deterioration of the goods will be transferred to McKesson Europe when the goods are delivered correctly and completely at the specified place of fulfilment.
4. The supplier’s provisions with regard to retention of title will only apply if they have been agreed in writing in advance. At its own discretion McKesson Europe will have the right to sell the goods on to third parties. McKesson Europe will be exclusively entitled to all claims arising from such onward sale.
5. Within a reasonable time McKesson Europe will examine the goods for possible defects and report any such defects to the supplier. The complaint will be deemed to have been received in good time if it reaches the supplier within 15 working days from the receipt of the goods, or from the date on which any hidden defects are discovered. To this extent the supplier will waive the objection that the complaint was received too late. A complaint will be deemed to have been accepted by the supplier if it is not rejected in writing within five working days from its receipt.

§ 3 - Delays in delivery

1. In the event of actual or expected delivery problems and/or delays the supplier will inform McKesson Europe without delay. The supplier will inform McKesson Europe about the reasons for the delay and its probable duration.
2. Regardless of further legal claims McKesson Europe will have the right in the event of a delay in delivery to demand a contractual penalty of 0.2% of the value of the goods for every working day on which the agreed delivery date is exceeded, to a maximum of 5% of the value of the goods.

§ 4 - Invoicing and terms of payment

1. The supplier will send all invoices to McKesson Europe in physical form, unless McKesson Europe has specified that invoices should be transmitted electronically. Invoices submitted by the supplier must comply with the requirements of McKesson Europe and the specifications of the applicable European guidelines.
2. The settlement of a supplier’s invoice does not represent confirmation that the goods covered by the invoice are free from defects.
3. Unless agreed otherwise in writing between the contracting parties, the contractually agreed prices will be deemed to be “free house” to the indicated delivery address and will include (where required) the applicable rate of VAT and packing costs.
4. Invoices will be settled within 45 days from receipt of the invoice by McKesson Europe, but not before delivery of the relevant goods free from defects. If an invoice amount is settled within 14 days, payment will be made less 3% cash discount. Every payment will be made subject to invoice verification. McKesson Europe will have rights of offsetting and retention to the statutory extent.
5. The supplier will not have the right to assign its claims on McKesson Europe to third parties, or to have them collected by third parties. This is without prejudice to the provisions of § 354a HGB.

§ 5 - Liability for defects

1. Without prejudice to other agreements the following features will be regarded as having been agreed:
 - a) correct packing/packaging without defects or damage;
 - b) goods suitable for sale to the public;
 - c) in the case of goods with a limited shelf life, at least 60% of the original shelf life.
2. Statutory rights in relation to defects will be available to McKesson Europe without restriction; in particular McKesson Europe will have the right at its own discretion to demand the correction of the defect, delivery of goods without defects, or compensation.
3. If the supplier is responsible for damage caused by product defects and the cause of the damage lies within his sphere of control or organisation, he will be obliged on first request to indemnify McKesson Europe against claims for damages from third parties.

§ 6 - Liability for defects of title

1. The supplier guarantees that goods will be supplied free from the rights of third parties and that no third party rights will be breached, to the extent that he can prove that he is not responsible for any breach of obligations.
2. In this respect he will indemnify McKesson Europe on first request against any and all claims made by third parties. Without the agreement of the supplier McKesson Europe will not have the right to make any agreements with the third party, and in particular not to agree a settlement. The obligation on the part of the supplier to indemnify McKesson Europe also covers any necessary expenditure which McKesson Europe incurs resulting from or in connection with claims made by a third party.

§ 7 - Transport insurance

Each delivery must have suitable insurance cover against transport damage or loss. On request McKesson Europe must be provided with proof that goods are insured by the presentation of the relevant insurance certificate.

§ 8 - Liability insurance

1. During the entire duration of the business relationship between McKesson Europe and the supplier the supplier will maintain adequate insurance cover at the level of at least EUR 5m per case of personal/material damage.
2. At the start of the contract the supplier will voluntarily prove the existence of adequate insurance cover by submitting to McKesson Europe the relevant insurance certificate or cover note. During the contractual relationship McKesson Europe will have the right at any time to demand proof of insurance cover.

§ 9 - Price changes

1. The prices agreed between the parties will always be binding fixed prices. The supplier warrants that he has taken into account all factors influencing the price.
2. Diverging prices may only be invoiced in exceptional cases where the reasons have been provided and written confirmation has been received from McKesson Europe. The supplier will not have a claim on consent to a price change. A price change will only come into effect at the earliest three months after approval has been granted, and will have no effect on orders which have already been executed and goods which have already been ordered.

§ 10 - Quality management

1. The supplier undertakes to monitor the quality of his services and deliveries constantly and to make adequate checks before delivery. The supplier will document his production and quality control processes in a clearly understandable way.
2. Any change in the quality of the goods which are the subject of the contract must be reported to McKesson Europe in writing in advance.
3. Before making use of their services/products the supplier will make a careful check on his own suppliers and subcontractors, and monitor them at regular intervals.

§ 11 - Data protection and data security

1. The supplier undertakes to comply with all applicable statutory data protection provisions and for security purposes attach top priority to all data which becomes known to him in the course of the business relationship with McKesson Europe.
2. As soon as it is no longer required for the purposes of the business relationship or for taxation or other legal purposes (data economy), the supplier will delete without delay all data which becomes known to him in the course of the business relationship.
3. Unless McKesson Europe has given its consent in advance no data must be passed on to or processed by third parties.

§ 12 - Non-disclosure agreement

1. The supplier undertakes not to disclose or make available to third parties any confidential information. This obligation of non-disclosure also applies to the contractual relationship itself.
2. The supplier will take suitable measures in order to prevent any forbidden disclosure and use of confidential information.
3. The non-disclosure obligations do not apply if confidential information is disclosed with the prior, express and written consent of McKesson Europe or has become public knowledge through no fault of the supplier.
4. At the request of McKesson Europe the supplier will without delay return or destroy without delay any documents containing confidential information made available to him by McKesson Europe, unless such documents are required for

the purposes of the business relationship or compliance with statutory provisions for the retention of documents.

§ 13 - Compliance and the environment

1. McKesson Europe attaches great importance to responsible and sustainable conduct in the case both of its own staff and of its business associates. The supplier therefore undertakes to familiarise himself with the "McKesson Europe code of conduct – guidelines on legal and ethical standards for the McKesson Europe Group", which can be accessed at www.McKessonEurope.com, and to act in accordance with the criteria contained in these guidelines. This applies in particular to the human rights aspect of dealings with employees and third parties, as well as the avoidance of discrimination and corruption.
2. McKesson Europe will have the right to withdraw from or terminate the existing contract if, in spite of a warning to this effect, the supplier repeatedly breaches statutory provisions.
3. The supplier will ensure that in his operations the impact on the environment will be kept as low as possible.

§ 14 - Permits

1. The supplier warrants that he has all official and other permits or rights which are required for the implementation of the contractually agreed services, to implement the activities involved, to produce or deliver the goods and to implement their transport.
2. On request the supplier will provide McKesson Europe with proof of this without delay.

§ 15 - Withdrawal from and termination of the contract

1. Without prejudice to its statutory right to withdraw from or terminate the contract, McKesson Europe will have the right to withdraw from or terminate the contract with immediate effect if the supplier stops making deliveries, if his financial situation deteriorates to such an extent that supplies could be endangered, if insolvency proceedings are initiated in relation to the supplier, or if he fails to meet his payment obligations.
2. If withdrawal from or termination of the contract results in damage to McKesson Europe the supplier will be responsible for providing compensation for such damage if he has been responsible for it.
3. McKesson Europe will have the right to withdraw from the entire contract if it has no interest in any partial performance which has already been implemented.

§ 16 - Changes to the terms and conditions of purchase

McKesson Europe will have the right to amend this agreement in future. However, such amendments will only come into force from their effective date if the supplier, in spite of being informed specifically about his right to reject them, does not reject the amendments within one month after he has been informed about them. The supplier will be expressly informed about this when he is notified about the amendment.

§ 17 - Place of fulfilment, written form requirement

1. The place of fulfilment is in each case the location indicated in the specific order of the branch or subsidiary of McKesson Europe. If no such branch or subsidiary is mentioned in the order, the place of fulfilment will be the head office of McKesson Europe.
2. Any subsequent amendment to the contract between McKesson Europe and the supplier will only be valid if concluded in writing. The same applies to any waiver of this written form requirement.

§ 18 - Place of jurisdiction, applicable law

1. The place of jurisdiction will be the registered location of McKesson Europe.
2. This contract is subject exclusively to the laws of the Federal Republic of Germany to the exclusion of international private law, unified international law and the UN convention on international contracts for the sale of goods.

§ 19 - Severability clause

If one or more provisions of this agreement are or become wholly or partly invalid, this will not affect the validity of the remaining provisions. If individual provisions are null and void, dispositive law will apply. If the latter does not provide a corresponding regulation, the parties will undertake to conclude whatever provision comes closest to the intentions of the original provision.

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