

Merck Sharp & Dohme s.r.o. (the "Seller")

GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY TO PHARMACIES AND HOSPITALS

1. APPLICABILITY

These General Terms and Conditions of Sale and Delivery (the "**Terms and Conditions**") are applicable as from 1st January 2017 to all sales and/or deliveries performed by the Seller to the pharmacies and hospitals ("the **Buyer**"). The Buyer hereby explicitly agrees with these Terms and Conditions by placing an order to the Seller for any medical product. The up-to-date version of these Terms and Conditions is available on the website of the service provider selected by the Seller ("**service provider**") – <https://epin.phoenix.cz/> and the Buyer will be notified of any change in the Terms and Conditions before placing an order in the order system of the service provider. These changes shall be effective as of the date announced by the Seller. These Terms and Conditions form an integral part of any sales and/or deliveries performed by the Seller to the Buyer.

2. PRICES

- 2.1 A medical product is sold for a price binding on the date of placing an order by the Buyer to the Seller, as stated in the Seller's pricelist.
- 2.2 The prices stated in the Seller's pricelist are net prices and exclusive of VAT.
- 2.3 The Seller may change the pricelist at any time. In addition, the Seller may reduce prices by a discount.

3. ORDERS

- 3.1 The order placed by the Buyer is not binding for the Seller. It requires the Seller's approval, which will be notified to the Buyer without any undue delay.
- 3.2 The order is subject to the Terms and Conditions binding on the date of placing an order by the Buyer to the Seller.
- 3.3 The order can be made electronically, in writing, telephonically, by fax or by different pre-agreed form between Buyer and the service provider of the Seller.

4. DELIVERY

- 4.1 The Seller is responsible for the proper shipment of the goods based on an order of the Buyer as approved by the Seller. Goods will be delivered by the service provider. Goods will be delivered at the delivery address indicated by the Buyer.
- 4.2 The risk of damage, reduction of value, deterioration and loss of the goods passes to the Buyer upon delivery (the Buyer must sign the delivery note or electronic delivery note as part of the delivery).
- 4.3 The delivery dates given by the Seller are always on approximation and are non-binding.

5. PAYMENTS

- 5.1 Payment shall be due within 30 days after the invoice date, unless the Seller and the Buyer agree otherwise.
- 5.2 Absent payment in a timely fashion, the Buyer will be in default by operation of law without any prior notice of default being required. From the moment any default occurs, the Seller will be entitled to request statutory default interest on the outstanding amount. All extrajudicial costs as reasonably incurred by the Seller in connection with the collection of sums owed to the Seller (including the costs of legal assistance) will be borne by the defaulting Buyer.

6. TRANSFER OF TITLE

The title to the product purchased passes to the Buyer as of the delivery of the product to the Buyer (the Buyer must sign delivery note or electronic delivery note as part of the delivery).

7. NON – PERFORMANCE

If either of the parties fails to perform its obligations or an obligation, the other party will be authorised to terminate any agreement between the parties to which these Terms and Conditions apply, if the party which fails to perform its obligation or obligations does not remedy the defective condition without any undue delay even after receiving a notice of such default, without the other party being required to pay any damages and without prejudice to all further rights the other party may have. If such failure to perform an obligation occurs in respect of the Buyer, all the Seller's receivables will be immediately due and payable in full. In that event, the Seller will be authorised to suspend or terminate all other agreements with the Buyer for the delivery of goods and services.

8. GUARANTEE & RETURN SHIPMENTS

Goods may be returned in accordance with the conditions set forth in Annex 1 of these Terms and Conditions, unless agreed otherwise in writing.

9. BUYER'S DUTY OF CARE & CLAIMS FOR DAMAGES

- 9.1 The Buyer must adequately familiarise itself with the properties (including any side-effects) of the goods purchased from the Seller.
- 9.2 The Buyer is required to strictly observe the rules with regard to the storage and handling of the goods delivered. The Buyer is required to inspect the goods and packaging upon receipt or otherwise as soon as possible and to the extent this can be reasonably required of the Buyer. Defects to the goods and packaging discovered during this inspection must be reported to the service provider within 5 days from the Buyer taking over the goods. If it was not possible to discover the defect during the inspection, the defect later discovered must be reported to the service provider without delay after such discovery. The Buyer is required to take measures to limit any damage as much as possible. In so doing, the Buyer will in particular follow the instructions given by the Seller with regard to the goods and packaging. All liability of the Seller with respect to the goods lapses if the Buyer fails to comply with any duty in this Article 9.2, unless legal regulations which cannot be excluded by agreement of parties provide otherwise.
- 9.3 The Buyer is responsible for any and all permits and authorisations required to purchase the goods from the Seller, sell them on and/or use them, as well as to perform other activities in relation to these Terms and Conditions and individual purchase agreements concluded on their basis. The Seller can require from the Buyer to provide the Seller with any permits and authorisations. The Buyer must, at all times, comply with all applicable laws, regulations and industry standards in relation to any and all activities relating to these Terms and Conditions. The Buyer will compensate the Seller for any damage and immaterial detriment incurred by the Seller due to the Buyer's failure to comply with this Article 9.3.
- 9.4 The Buyer will ensure that its records related to the goods delivered by the Seller comply with all requirements according to the applicable laws and regulations (in particular good distribution practice). The Buyer will ensure that the recipients of the goods can be traced within a short period. The Buyer will ensure that the goods delivered by the Seller remain identifiable and will not be mixed with other goods if this leads to the goods no longer being identifiable.
- 9.5 The Buyer shall not present itself as a representative or agent or otherwise acting in the name and on behalf of the Seller or having authority to bind the latter with its actions in any manner. Nothing contained in these Terms and Conditions shall be deemed or construed as creating relations of agency or joint venture or partnership between the Seller and the Buyer.
- 9.6 The Seller's liability for failure in the product delivery is limited to the amount of the net sales price or net invoiced amount (whichever is lower) of the respective goods, unless legal regulations which cannot be excluded by agreement of parties provide otherwise.

10. INTELLECTUAL PROPERTY RIGHTS & STUDIES

All intellectual property rights related to the goods and related materials delivered remain with the Seller or its licensors.

11. CONFIDENTIALITY & PUBLICITY

- 11.1 The Seller and the Buyer will treat information and/or data related to the other party's operations which, by nature, are confidential, as strictly confidential and will not disclose same to third parties in any way whatsoever, unless this information and/or data were demonstrably already generally known when the first agreement between the Seller and Buyer was concluded, or if one party has authorised the other party in writing to disclose this information and/or data to a third party/parties; this is not to the prejudice of the Seller and the Buyer proceeding in accordance with Act No. 340/2015 Sb., on Register of Contracts, as amended.
- 11.2 The Buyer will not refer to agreements, offers and/or deliveries of the Seller in publications or advertising in magazines, newspapers, reports, brochures or otherwise without prior written consent of the Seller.

12. ETHICAL BUSINESS/CONFLICT OF INTEREST

In its performance of sales and deliveries of the Seller, the Buyer shall adhere to business practices that are in accordance with the letter and application practice of applicable laws and ethical principles included in the Code of Conduct published on www.msd.com.

13. CHOICE OF LAW

- 13.1 All sales and/or deliveries performed by the Seller to the Buyer are governed by the laws of the Czech Republic such with the exclusion of the Vienna Sales Convention (CISG).
- 13.2 Any disputes arising from sales or the delivery of goods by the Seller to the Buyer will, in the first instance, be brought exclusively before the respective Czech courts.

GENERAL TERMS & CONDITIONS OF SALE AND DELIVERY TO PHARMACIES AND HOSPITALS

ANNEX 1

Returns Policy for Products of Merck Sharp & Dohme s.r.o.

Merck Sharp & Dohme s.r.o. (hereinafter: the "Seller") apply the following rules with regard to returns by pharmacies and the hospitals (hereinafter: the "Buyer"), unless agreed otherwise in writing (qualified person for distribution of the Seller has to be informed in writing on each change). These rules apply only to the last delivery of the relevant product, in other instances there is no right of return.

Situation	Conditions	Returns policy and crediting	Comments
1. Products ordered erroneously by the Buyer	N/A	0% return of erroneously ordered products and 0% crediting of erroneously ordered products.	
2. Products delivered erroneously by the Seller (product A instead of product B or delivery of larger quantity)	Reported to services provider (PHOENIX lékárenský velkoobchod, a.s.) in writing within 5 days after taking over the product by the Buyer.	100% return of erroneously delivered products and 100% crediting of erroneously delivered products, possibly the product A is re-invoiced and product B credited.	Erroneously delivered goods may be received back by the services provider (PHOENIX lékárenský velkoobchod, a.s.) only in intact packaging with no writings and attached labels.
3. Damaged goods received	Reported to services provider (PHOENIX lékárenský velkoobchod, a.s.) in writing within 5 days after taking over the product by the Buyer.	100% return of provably damaged goods and 100% crediting of provably damaged goods, if the damage occurred prior to delivery (Article 4.2 General Terms and Conditions), and if the damage was assessed and approved for return by qualified person for distribution of the Seller. Otherwise 100% return of the damaged goods and 0% crediting. Cost of destruction of the returned goods are to be borne by the Seller.	Damaged goods should be returned in packaging that shall prevent contamination of the environment and jeopardising employees when handling the damaged goods.
4. Complains related to the product (complaint about the quality)	Reported to services provider (PHOENIX lékárenský velkoobchod, a.s.) in writing immediately after the quality defect was ascertained or after receiving the claim.	100% return of claimed products, if the claimed goods was assessed and approved for return by qualified person for distribution of the Seller. 100% crediting if the claim was assessed and declared valid by qualified person for distribution of the Seller.	The claimed product should be returned in packaging that shall prevent contamination of the environment and jeopardising employees when handling the damaged goods. Damage occurring during the transport or in the Buyers' warehouse is not covered by quality complaints.
5. Goods the Buyer has in stock, the shelf life of which has expired	N/A	0% return and 0% crediting	There is no compensation for the items in stock.