

Mylan UK– TERMS AND CONDITIONS OF PURCHASE

<p>1 Interpretation</p> <p>In these Conditions, the following expressions shall have the following meanings:</p> <p>"Mylan" means either Mylan Pharma UK Limited, Mylan UK Healthcare Limited or Generics UK Limited as identified on the front of the Order.</p> <p>"Conditions" means the terms and conditions of purchase set out in this document together with any special terms and conditions agreed in writing between MYLAN and the Supplier.</p> <p>"the Contract" means the Order and the Conditions and any Drawings or other documents which are attached or referred to in the Order or which relate to the Goods ordered.</p> <p>"Goods" means the goods or any of them described in the Order including any materials, articles, plant, equipment, products or services or any of them to be supplied to MYLAN pursuant to the Contract.</p> <p>"Order" means the requirements of MYLAN issued by MYLAN to the Supplier on the official purchase order form of MYLAN to which these Conditions are annexed or otherwise issued by MYLAN in writing to the Supplier;</p> <p>"Supplier" means the person, firm or company to whom the Order is addressed</p> <p>2 Basis of Purchase</p> <p>2.1 The Order constitutes an offer by MYLAN to purchase the Goods subject to the Conditions and no Order is binding on MYLAN unless and until the Supplier expressly by giving notice of acceptance or impliedly by fulfilling the Order, in whole or in part accepts the offer.</p> <p>2.2 These Conditions alone govern and are incorporated in every contract or other course of dealings made or undertaken by MYLAN with the Supplier. No other action on the part of MYLAN, whether by accepting Goods or otherwise, shall be construed as an acceptance of any other conditions.</p> <p>3 Ordering Procedure and Orders</p> <p>3.1 MYLAN may place Orders for its requirements of Goods in writing on MYLAN's official purchase order form. The date and place of delivery may be altered by MYLAN from time to time by written notice to the Supplier. The Supplier must not make any changes whatsoever in the colour, specification, design or composition of the Goods once ordered without the prior written consent of MYLAN.</p> <p>3.2 The Supplier must immediately inform MYLAN if the Supplier knows or believes that it will not be, or is unlikely to be, able to deliver all or any of the Goods by the date required on the Order and MYLAN is entitled to cancel any Order placed without liability and without prejudice to any other right or remedy.</p> <p>4 Deliveries</p> <p>4.1 All Goods must be delivered Carriage and Insurance Paid (as that term is defined in Incoterms 2010 Edition) to the address stated on the Order or otherwise notified to MYLAN ("Delivery Address") except where any provision of these Conditions expressly provides otherwise or unless otherwise agreed in writing. All prices, unless otherwise stated, include packing, crates, packaging and delivery.</p> <p>4.2 The Goods ordered by MYLAN are at the Supplier's risk until delivered to the Delivery Address.</p> <p>4.3 Delivery must be made by the Supplier during MYLAN's normal working hours (between 8 am and 4 pm Monday to Friday) or as requested by MYLAN. MYLAN accepts no responsibility for Goods delivered outside these times.</p> <p>4.4 The title in the Goods passes to MYLAN on proper delivery to the Delivery Address, whether or not MYLAN has made payment in respect of them, unless payment of the Goods is made prior to delivery, in which case title passes to MYLAN once payment has been made and the Goods have been appropriated to the Contract. The Supplier will indemnify MYLAN against any third party claims regarding title of goods.</p> <p>4.5 Each consignment of Goods ordered by MYLAN must be delivered in full by the due date stipulated by MYLAN and time is the essence of the Agreement. The date for delivery is as specified in the Order, or if no such date is specified then the Supplier shall request a date for delivery from MYLAN and MYLAN will provide such date for delivery to the Supplier. If any Order is only partially fulfilled by the agreed date, then MYLAN reserves the right, without prejudice to any other remedy, either to accept or reject those Goods that have been delivered and, in either case, to cancel the Order in respect of those that have not been delivered on time and to apportion the price accordingly.</p> <p>4.6 All Goods delivered must be accompanied by a dispatch note or a consignment note and a packing note quoting the Order reference number (and any relevant part number) which must be displayed prominently. Any indication by MYLAN on delivery that a consignment accords with the consignment note shall not be taken as indicating that MYLAN has accepted the Goods.</p> <p>4.7 MYLAN is entitled to reject any Goods delivered which are not in accordance with the Contract within 60 days of the defect coming to its attention.</p> <p>4.8 The Supplier bears the risk in respect of any rejected Goods. MYLAN is entitled to charge the Supplier a daily storage charge for the period in which any rejected Goods remain uncollected.</p> <p>4.9 If the Supplier fails to deliver the Goods ordered by MYLAN in full or in part or to make delivery within the period specified, then the Supplier is liable to indemnify and reimburse MYLAN fully for its loss or damage directly or indirectly attributable to the delay in delivery or failure to deliver, including (without limitation) any expenditure reasonably incurred by MYLAN which are in any way attributable to the Supplier's failure to deliver the Goods on the due date.</p> <p>5 The Goods</p> <p>5.1 The Supplier warrants, represents and undertakes to MYLAN that the Goods delivered or supplied:</p> <p>(a) will comply with the Contract and/or any specifications issued in connection therewith in quantity, quality and description for the Supplier's guarantee period whichever is the longer;</p> <p>(b) will be of satisfactory quality and fit for any purpose for which they are supplied and held out by the Supplier and for which they are commonly used;</p> <p>(c) will be free from defects in design, material and workmanship;</p> <p>(d) will conform with all relevant legal and statutory requirements including, but without limitation, the Trades Descriptions Act 1968, the Health and Safety at Work Act 1974, the Consumer Safety Act 1978, the Sale and Supply of Goods Act 1994, the Weights and Measures Act 1985, the Consumer Protection Act 1987 and any amendments, modifications, re-enactments and regulations made under any of those acts;</p> <p>(e) will be in accordance with the latest current issue of any relevant British Standards, Specifications and Codes of Practice, as at the date of the Order and of delivery or supply unless agreed otherwise in writing.</p> <p>The warranties set out in this Condition 5.1 will continue in force notwithstanding the acceptance or use by the Company of the Goods.</p> <p>5.2 Without prejudice to any other remedy, if any Goods are not supplied in accordance with the Contract then MYLAN is entitled:</p> <p>(a) to require the Supplier to supply replacement Goods in accordance with the Contract within 7 days; or</p> <p>(b) at MYLAN's sole option, and whether or not MYLAN has previously required the Supplier to supply any replacement Goods, to treat the Contract as discharged by the Supplier's breach and require the repayment of any part of the price which has been paid and any sums due pursuant to Condition 5.3.</p> <p>5.3 The Supplier must indemnify MYLAN in full against all damages, costs and expenses (including legal expenses) awarded against or incurred or paid by MYLAN as a result or in connection with:</p> <p>(a) a breach of any warranty given by the Supplier in relation to the Goods or warranty or term of the Contract;</p> <p>(b) any claim that the Goods or their importation, use or resale, infringes the patent, copyright, design right, trade mark or other intellectual property rights of any other person; any claim arising from injury to person (except where solely caused by MYLAN's negligence) or damage to property arising from the use of the Goods or the fulfillment of the Contract or sustained by the Supplier, its employees or agents while on MYLAN's premises.</p>	<p>5.4 The Company's rights under these Conditions are in addition to the statutory conditions implied in favor of MYLAN by the Sale of Goods Act 1979 as amended.</p> <p>6 Price</p> <p>6.1 The price of the Goods will be as stated in the Order and, unless otherwise stated is:</p> <p>(a) exclusive of any applicable value added tax (which shall be payable by MYLAN subject to receipt of a VAT Invoice); and</p> <p>(b) inclusive of all charges for packaging, package, carriage, insurance and delivery of the Goods to the Delivery Address and any duties, taxes or levies other than Value Added Tax.</p> <p>6.2 No increase in the price may be made, whether on account of increased material, labor or transport costs or otherwise, without the prior written consent of MYLAN in writing.</p> <p>6.3 The Company is entitled to the benefit of any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Supplier, whether or not shown on its own terms and conditions of sale.</p> <p>7 Payment</p> <p>7.1 The Supplier may invoice MYLAN on or at any time after proper delivery of the Goods.</p> <p>7.2 Unless otherwise stated in the Order, MYLAN will pay the price of the Goods within 60 days from the last day of the month in which the invoice is issued pursuant to Condition 7.1 but time for payment is not of the essence.</p> <p>7.3 Without prejudice to any other right or remedy, MYLAN is entitled to set off against the price of the Goods any sums owed to MYLAN by the Supplier.</p> <p>8 Termination</p> <p>8.1 MYLAN is entitled to terminate the Contract with immediate effect by written notice if the Supplier becomes unable to pay its debts as they fall due, or the value of its assets is less than the amount of its liabilities taking into account its contingent and prospective liabilities; or a statutory demand is served, a receiver is appointed or any insolvency procedure under the Insolvency Act 1986 is instituted or occurs; or if the Supplier commits a material breach of the Contract or any other contract between MYLAN and the Supplier.</p> <p>8.2 If any of the events described in Condition 8.1 occurs MYLAN is entitled without prejudice to any of its other rights to avail itself of any one or more of the following remedies at its discretion, whether or not any part of the Goods have been accepted by MYLAN:</p> <p>(a) to rescind the Order;</p> <p>(b) to reject the Goods (in whole or in part) and return them to the Supplier at the risk and cost of the Supplier on the basis that a full refund for the Goods so returned will be paid immediately by the Supplier;</p> <p>(c) at MYLAN's option to give the Supplier the opportunity at the Supplier's expense either to remedy any defect in the Goods or to supply replacement Goods and carry out any other necessary work to ensure that the terms of the Contract are fulfilled;</p> <p>(d) to refuse to accept any further deliveries of the Goods but without any liability to the Supplier;</p> <p>(e) to carry out at the Supplier's expense any work necessary to make the Goods comply with the Contract; and</p> <p>(f) to claim such damages as may have been sustained in consequence of the Supplier's breach or breaches of the Contract.</p> <p>8.4 All provisions of this Agreement which in order to give effect to their meaning need to survive the termination of the Agreement in whole or in part will remain in full force and effect after such termination.</p> <p>9 Ownership of Property</p> <p>All Drawings, dies, moulds, tooling and other proprietary information (including without limitation know-how, specifications, inventions, processes or initiatives) ("Information") either furnished by MYLAN to the Supplier or created or provided by the Supplier for the purpose of the Contract must remain the property of MYLAN and the Supplier must treat such Information as strictly confidential, must keep it safely and must not use nor disclose it except as strictly required in the course of performance of the Contract. MYLAN may reproduce and use such Information freely for any purposes whatsoever.</p> <p>10 General</p> <p>10.1 Any communication to be given in connection with this Contract must be in writing in English and must (unless otherwise set out in this Condition) either be delivered by hand or sent by first class/registered or recorded post or fax to the address of the relevant party. For the purposes of clause 3.1, the Company shall be entitled to deliver communications by email to the email address provided by the Supplier.</p> <p>10.2 The Company may, but the Supplier may not, without the prior written consent of MYLAN assign any of its rights or transfer any of its obligations, or sub-contract or delegate any of its obligations under these Conditions.</p> <p>10.3 If any provision of these Conditions is held to be invalid or unenforceable by any judicial or other competent authority, all other provisions of these Conditions will remain in full force and effect and will not in any way be impaired.</p> <p>10.4 The Supplier must not without the prior written permission of MYLAN advertise or announce that it supplies Goods to MYLAN and shall discontinue any such permitted advertisement or announcement on demand.</p> <p>10.5 The Supplier will at all times insure and keep itself insured with a reputable insurance company against all insurable liability under the Contract or in respect of the Goods and shall produce on request by MYLAN the policy of such insurance and the premium receipts.</p> <p>11 Governing Law and Jurisdiction</p> <p>The Contract is governed by and is to be construed in accordance with English law. The parties irrevocably agree that the courts of England and Wales will have exclusive jurisdiction to settle any dispute, which may arise out of or in connection with the Contract.</p> <p>12 Debarment and Anti-Corruption</p> <p>12.1 Supplier shall not knowingly utilize the services of any employee or other person who is debarred by the US Food and Drug Administration, any other regulatory authority or any other applicable law or is otherwise prohibited by any government authority from participating in any government health program.</p> <p>12.2 Supplier shall comply with, and will not cause Mylan and its Affiliates, associates, directors, officers, shareholders, employees, representatives or agents worldwide to be in violation with any applicable anti-corruption regulation and notably without limiting the foregoing to any provision of the United States Foreign Corrupt Practices Act (the "FCPA") and U.K. Bribery Act 2010. Without limiting the foregoing, Supplier will not, directly or indirectly, pay any money to, or offer or give anything of value to, any "government official" as that term is used in the FCPA, in order to obtain or retain business or to secure any commercial or financial advantage for Mylan or for itself or any of their respective Affiliates. Supplier undertakes not to bribe government officials or any private companies or individuals, "bribes" having the following definition: Offering, promising, or giving a financial or other advantage to another person where it is intended to bring about the improper performance of a relevant function or activity, or to reward such improper performance; acceptance of the advantage offered, promised or given in itself constitutes improper performance of a relevant function or activity. "Improper Performance" means a breach of expectations that a person will act in good faith, impartially, or in accordance with a position of trust.</p>
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