

1. GENERAL

1.1 All sales by Summit Pharmaceuticals Europe S.r.l. ("Seller") shall exclusively be governed by the terms and conditions specified herein (the "Conditions"). Any deviating conditions or confirmations of the person, firm or company ("Buyer") who purchases any goods in any contract between Seller and Buyer, including without limitation any terms or conditions endorsed on, delivered with or contained in Buyer's confirmation of order, specification or other document ("Purchase Order") shall be applicable only, if and in so far as Seller has expressly consented to them in writing. Seller's mere silence with respect to such deviating conditions or confirmations shall not be construed as acknowledgment or consent. Seller hereby expressly objects to all such deviating conditions or confirmations of Buyer. Purchase Order shall be accepted by the Seller with confirmation of the order ("Sales Order") containing conditions and specifications of the order received. In case of discrepancy, Sales Order will prevail to any specification contained in the Purchase Order. With such confirmation Buyer's also accepts the present Conditions.

1.2 Buyer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of Seller which is not set out in the present Conditions and in the Sales Order ("Contract")

2. DELIVERY-PASSING OF RISK

2.1 The obligation of Seller to deliver the goods specified on the Contract (the "Goods") by the time or within the period stipulated on the Sales Order shall be subject to the availability of necessary space of a vessel, air craft, truck, railway or other means of transportation agreed by the parties hereunder. Any delivery terms shall be intended as indicative and shall not be regarded as essential pursuant to article 1457 of the Italian Civil Code. Failure of the Seller to comply with the delivery terms shall not constitute a breach of its delivery obligation.

2.2 If the Contract is based on a FOB, FAS or any other trade terms under which Buyer shall secure necessary vessel's space, Buyer shall do so on the basis of berth terms.

2.3 In case Buyer shall contract for the carriage of the Goods, Buyer shall give Seller due delivery instructions within a reasonable time prior to delivery, so as to enable Seller to have the Goods ready for delivery. Failure of Buyer to give such instructions in time is a breach of the Contract; in such a case Seller, for the account and at the risk of Buyer, may, at its discretion either (i) contract for the carriage of the Goods and make delivery, (ii) arrange for the storage of the Goods or (iii) terminate the Contract or any part thereof, without prejudice to any other rights and remedies Seller may have.

2.4 In case of delivery in instalments, any delay or failure in delivery of one lot shall not be deemed a breach of the Contract giving rise to a right of Buyer to terminate the Contract or refuse to accept the performance with respect to the other lots. The risk of loss or damages of the Goods shall pass to Buyer in accordance with the Incoterms of the latest edition ("Incoterms") as indicated on the Sales Order in connection with the delivery terms. If no Incoterm is included in the Contract, the risk of loss or damage shall pass to Buyer when the Goods are handed over to the first carrier.

3. PAYMENT

3.1 If payment for the Goods shall be made by a letter of credit, Buyer shall, unless otherwise specified, establish in favour of Seller an irrevocable letter of credit on terms satisfactory to Seller negotiable on sight draft through a prime bank of good international repute, which shall be received by Seller immediately after conclusion of the Contract. The letter of credit shall remain valid for at least fifteen (15) days after the latest time of delivery. If the letter of credits is dishonored, Buyer shall pay Seller directly and unconditionally.

3.2 Buyer shall pay the price specified on the Sales Order (the "Price") without set-off, counterclaim, recoupment or other similar rights which Buyer may have against Seller, which rights shall be exercised in separate proceedings between Buyer and Seller. Unless otherwise specified on the Sales Order, payment of the price for the Goods is due in Euro within 30 days of Seller issuing an invoice for the Goods.

3.3 If Buyer fails to pay for the Goods in accordance with the Contract, Seller shall be entitled to terminate forthwith the Contract pursuant to article 1456 of the Civil Code and Buyer shall be liable to pay interest to Seller on such overdue sum from the due date in accordance with Legislative Decree 9 October 2002, no 231, as amended.

3.4 If Buyer's failure to make payment or otherwise perform its obligations hereunder is reasonably anticipated, Seller may demand Buyer to provide, within a reasonable time adequate assurance satisfactory to Seller of the due performance of the Contract and withhold delivery of the undelivered Goods until such assurance is given.

3.5 In the event of payment delays, Seller shall be entitled not to accept new orders, and/or to suspend the execution of deliveries, and/or accept of orders and/or deliver subject to advance payment or payment on delivery, or to demand that appropriate guarantees are provided.

4. INCREASED COST

Any new, additional or increased freight rates, surcharges (bunker, currency, congestion or other surcharges), taxes, customs duties, export or import surcharges or other governmental charges, or insurance premiums, which may be incurred by Seller with respect to the Goods after the conclusion of the Contract, shall be for the account of Buyer and shall be reimbursed to Seller by Buyer on demand and together with the payment of the Price as specified under article 3.2.

5. TAXES AND DUTIES

All taxes, duties, costs and charges attributable to the laws of any national or local government or agency thereof that may be assessed in the country of destination as indicated on the Sales Order or the country of Buyer on any transactions herein contained, including but not limited to import duty and surcharge, shall be borne and paid by Buyer.

6. INSPECTION OF GOODS AND WARRANTY

6.1 UNLESS EXPRESSLY STIPULATED ON THE SALES ORDER, SELLER MAKES NO WARRANTY OR CONDITION, EXPRESSLY OR IMPLIEDLY, AS TO THE DEFECTS OF THE GOODS, DESCRIPTION OR QUALITY OF THE GOODS OR THEIR SUITABILITY FOR ANY PARTICULAR PURPOSE OF THEIR USE OR MERCHANTABILITY OR AS TO THEIR CORRESPONDENCE WITH SAMPLE. IF ANY WARRANTY EXISTS, SELLER'S LIABILITY SHALL BE SUBJECT TO NOTIFICATION OF SELLER UNDER PARAGRAPH 6.2 BELOW WITHIN THE TERM PROVIDED THEREIN AND, IN ANY EVENT, LIMITED TO REPLACEMENT OR REPAIR OF THE DEFECTIVE GOODS OR TO REFUND OF THE PRICE, AT SELLER'S OPTION.

6.2 Buyer shall promptly inspect the Goods and notify Seller of defects in any of the Goods within thirty (30) days after the arrival of the Goods at the place of destination as indicated on the Sales Order. Buyer's notification of defects shall contain full particulars of the nature of the defect. If Buyer fails to give requisite notice, the Goods shall be conclusively presumed to be free from any defects and Buyer's rights under any warranty shall be forfeited accordingly.

6.3 The preceding paragraphs set out the entire warranties' obligations of Seller with regard to the Goods. Any other warranty, including those provided for by the Civil Code, is expressly excluded.

7. WARNINGS, LABELS, INSTRUCTIONS, ETC.

Where the Goods are supplied with any warnings, labels, instructions, stickers, manuals or other information (together referred to as "Instructions") whether printed or otherwise appearing on or affixed to the Goods (or any part thereof) or any packaging in which the Goods are supplied or otherwise supplied separately with the Goods and whether in the form of writing, pictures, drawings, diagrams, carriage, tolerances or other treatment of the Goods, Buyer shall ensure that all such Instructions are not lost or damaged in any way while the Goods are in its possession or under its control and that they are supplied with the Goods when Buyer releases them from its possession or control.

8. INDEMNITY ETC.

Buyer shall indemnify Seller on demand in full against all direct, indirect or consequential liabilities (all three of which terms include, without limitation, loss of profit, loss of business, depletion of goodwill and similar loss), actions, suits, claims, demands, losses, charges, costs and expenses (including legal and other professional fees and expenses) which Seller may suffer or incur in connection with any claim by any third party alleging facts which if established would evidence a breach of the undertakings or representations on the part of Buyer contained in this Contract. This paragraph 8 shall survive withdrawal of the Contract.

9. FORCE MAJEURE

9.1 If the performance by Seller of its obligations hereunder is directly or indirectly delayed or prevented by an event of force majeure, including but not limited to, Acts of God, fire, explosion or other catastrophes, epidemic or pandemic, quarantine restriction, perils of the sea, war declared or not or threat of the same, civil condition, blockade, arrest or restraint of government, rulers or people, strike, lockout, sabotage or other labour dispute, accident, breakdown or unavailability of whole or part of machinery, plant, transportation or loading facility, governmental request, guidance, order or regulation, severe shortage of oil, gas, electricity or materials, bankruptcy or insolvency or reorganization of the manufacturer or supplier of the Goods, or any other cause or causes or circumstances whatsoever beyond the reasonable control of Seller or manufacturer or supplier of the Goods, then Seller shall not be liable for loss or damage, or failure of or delay in performing its obligations under the Contract and may, at its option, extend the time of delivery of the Goods or terminate unconditionally and without liability the unfulfilled portion of the Contract to the extent so delayed or prevented.

9.2 In any case, Seller shall operate with the greatest degree of diligence to mitigate the effects of instances of Force Majeure. Each Party shall individually bear any direct and/or indirect consequence resulting from a situation of Force Majeure and the Buyer shall not be entitled to make any claim against the Seller following the occurrence of an event of Force Majeure.

9.3 Without prejudice to the provisions laid down for the events of Force Majeure, in case of impossibility to fulfil the delivery as indicated on the Sales Order, in whole or in part, due to unforeseeable events pursuant to articles 1463 and ff. of the Italian Civil Code, cancellation or reduction of said Sales Order shall not entitle the Buyer to claim any compensation for damages nor payment of interest for (i) non-delivery or partial delivery of the Goods, or (ii) for any delays in delivering the Goods.

10. TERMINATION - WITHDRAWAL

10.1 Save as provided for by articles 2, 3 and 9 above, the Contract may be terminated forthwith by the Seller by notice in writing to the Buyer in the event of failure by the Buyer to perform any of its respective promises, undertakings, obligations or covenants contained in the Contract and has not remedied such breach within 15 (fifteen) days of written notice being given requiring this to be done.

10.2 Buyer shall reimburse Seller for all loss or damage arising directly or indirectly from any breach of Contract, including but not limited to any costs and expenses such as dead freight, loss of profit obtainable from resale by Seller of the Goods.

10.3 Save as provided for in the preceding paragraph 10.1 and 10.2 above, the Seller shall have the right to withdraw from the Contract at any time on the occurrence of any of the following events ("Events of Withdrawal"): (i) Buyer's dissolution, liquidation, insolvency or bankruptcy, or the filing of any voluntary or involuntary application of bankruptcy, insolvency, reorganization or any other similar proceedings regarding Buyer; (ii) general assignment for the creditors of Buyer; (iii) Buyer is the object of a change in the company's shareholder structure, including ensuing from merger or demerger, which may result change of control (according to the provisions set forth in article 2359, paragraphs one and two, of the Italian Civil Code) which would in the reasonable judgement of Seller materially and adversely affect the ability of Buyer to fulfil its obligations under the Contract; (iv) An enforcement of any kind is started against the assets of the Buyer, other than one which is removed within ten (10) days, or (v) Buyer's cessation of carrying on its business, or a substantial part thereof (vi) Buyer is the object (individually or jointly with members of its Board of Directors) of negative communications from the competent Prefecture, in accordance with Legislative Decree 8.8.1994 no. 490.

10.4 Seller shall not be liable to the Buyer for loss, damage, costs or expenses arising from the withdrawal from the Contract pursuant to paragraph 10.3. above.

10.5 Seller retains the right to withdraw from the Contract, at its own discretion, without the obligation to state its reasons, and without the exercise of such a right may entail grounds for any claim for compensation for damages or indemnity; the withdrawal shall be communicated to the Buyer by means of registered mail with acknowledgment of receipt or certified email, giving 45 (forty-five) days' notice. It is understood that the withdrawal pursuant to the present article 10.5 shall not have any effect on services already performed.

11. INTELLECTUAL PROPERTY RIGHTS

11.1 Nothing herein contained shall be construed as transferring any patent, trademark, utility model, design, copyright, mask work or any other intellectual property rights in the Goods, all such rights being expressly reserved to the true and lawful owner.

11.2 Seller shall not be responsible for any infringement or unauthorized use with regard to patent, utility model, trademark, design, copyright, mask work or any other intellectual property right. In case any dispute or claim arises in connection with the above rights, Seller reserves the right to cancel the Contract and hold itself free from any liability arising therefrom.

12. LIMITATION OF LIABILITY

12.1 The following provisions set out the entire financial liability of the Seller (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of: (a) any breach of the Contract; (b) any use made or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods; and (c) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract. Any other liability of the Seller is excluded from the Contract.

12.2 Nothing in these Conditions excludes or limits the liability of the Seller: (a) for death or personal injury caused by the Seller's negligence or by defective Goods; or (b) for any matter which it would be illegal for the Seller to exclude or attempt to exclude its liability; or (c) for fraud, fraudulent misrepresentation and gross negligence.

12.3 Subject to the previous two paragraphs: (a) the Seller's total liability arising in connection with the performance or contemplated performance of the Contract shall be limited to the Price; and (b) the Seller shall not be liable to the Buyer for: 1) any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or 2) any claims for indirect, incidental or consequential compensation, loss or damage whatsoever (howsoever caused) which arise out of or in connection with the Contract.

13. MISCELLANEOUS

13.1 In case there is any provision in the Contract which prohibits or restricts Buyer from or to doing certain acts (e.g. destination restriction clause), Buyer shall ensure that its customers and users of the Goods comply with such prohibition or restriction, provided that this provision shall not, in any way, be construed to diminish Buyer's obligation to comply with such prohibition or restriction.

13.2 The rights and remedies of Seller hereunder are cumulative and in addition to Seller's rights, powers and remedies existing at law, or in equity or otherwise.

13.3 The failure of Seller at any time to require full performance by Buyer of the terms hereof shall not affect the right of Seller to enforce the same. The waiver by Seller of any breach of any provision of the Contract shall not be construed as a waiver of any succeeding breach of such provision or waiver of the provision itself. Any forbearance on the part of one of the Parties with regard to any conducts realized by the other Party in violation of the provisions of the Contract shall not constitute a replacement of the terms of this Contract, nor a waiver of the rights arising out of the violated provisions nor a waiver of the right to demand due fulfillment of all the terms and conditions stated herein.

13.4 Parties acknowledge and agree that under this Contract each of them may be provided with Confidential Information (meaning any information concerning the business of the Parties obtained directly or indirectly from carrying out the present Contract) related to the other Party; both Parties undertake to use such Confidential Information to the extent that this is required for performing this Contract and to keep them strictly confidential either while this Contract is in force and after its termination for whatever reason for 2 years and to keep them with care and diligence.

13.5 Buyer shall not transfer or assign Contract or any part thereof. However, the Buyer hereby agrees that Seller may transfer this Contract to any other company which is a member of the Seller Group.

13.6 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

13.7 The Contract together with any other terms expressly agreed in writing between the parties in relation to the Goods constitute the entire agreement between the parties hereto with respect to the Goods. This Contract may not be supplemented, modified or amended except by a written agreement of the parties hereto.

13.8 The trade terms herein used, such as FOB, CFR, and CIF, shall be interpreted in accordance with Incoterms of the latest edition. In all other respects, the Contract shall be governed by and construed in accordance with the laws of Italy. For the avoidance of doubt, the United Nations Convention on the International Sale of Goods shall not apply to the Contract.

13.9 In case Buyer is a corporation, entity or partnership established outside Italy, which does not have a branch in Italy, any dispute arising out of or in connection with the Contract, including any question regarding its existence, validity or termination, and claims for set-off and counterclaim shall exclusively be referred to and finally resolved by arbitration under the Rules of the Chamber of National and International Arbitration of Milan ("Rules"). The Arbitral Tribunal shall consist of 3 (three) arbitrators appointed pursuant to those Rules. The Arbitral Tribunal shall decide in accordance with the rules of law of Italy, the seat of the arbitration shall be Milan and the language of the arbitration shall be English. The award of the arbitration shall be final and binding upon the parties hereto and shall not be appeal ed to any court. As long as no request for arbitration has been received by the Chamber of National and International Arbitration of Milan within 15 (fifteen) days from the date of the notice of a party notifying the other, for the purpose of the application of this paragraph 13.8, that a dispute under the Contract has arise, Seller may bring proceedings exclusively under the jurisdiction of the Courts of Milan in which case the Courts of Milan have exclusive jurisdiction to settle any dispute arising out of or in connection with the Contract (including claims for set-off and counterclaims).

13.10 In case Buyer is not such corporation, entity or partnership as mentioned in clause 13.8, both parties agree that the Courts of Milan have exclusive jurisdiction to settle any dispute (including claims for set-off and counterclaim) arising out of or in connection with the Contract, including any question regarding its existence, validity or termination.

13.11 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by registered mail, return receipt requested or sent by fax or Certified Email to the recipient's registered address or such other address as may be specified from time to time. Notices sent by registered mail, return receipt requested, shall be deemed to have been received on the date shown on the return receipt. Notices sent by fax or Certified Email on a working day before 4:00 pm (time at recipient's location) shall be deemed to have been received on the time of transmission and otherwise shall be deemed to have been received on the next working day. Notices delivered by hand shall be deemed to have been received on the day of delivery. Working days are days on which banks are open in Milan, Italy.

By way of acceptance:

(Buyer)

For the purpose and pursuant to article 1341 of the Civil Code, the following articles of the General Terms and Conditions are specifically approved in writing by Buyer: 2 (Delivery - Passing of risk); 3 (Payment); 4 (Increased cost); 5 (Taxes and duties); 6 (Inspection of goods and warranty); 8 (Indemnity etc.); 9 (Force majeure); 10 (Termination - Withdrawal); 11 (Industrial property rights); 12 (Limitation of liability); 13 (Miscellaneous)

(Buyer)