

## MYLAN - STANDARD CONDITIONS OF SALE

### Interpretation

In these Conditions: 'Buyer' means the person who is described overleaf 'Products' means the products (including any instalment of the products or any parts for them) which the seller is to supply in accordance with these Conditions 'Mylan' means 'Generics [UK] Limited t/a Mylan of 20 Station Close, Potters Bar, England, EN6 1TL (registered in England under number 1558756) 'Mylan UK' means Mylan UK Healthcare Limited of 20 Station Close, Potters Bar, England, EN6 1TL (registered in England under number 09189103) 'Seller' means either Mylan or Mylan UK as Indicated next to each product on any invoice 'Conditions' means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in Writing between the Buyer and either Mylan or Mylan UK. 'Contract' means the contract for the purchase and sale of the Products. 'Writing' and any similar expression includes facsimile transmission, photocopy, electronic mail and Electronic Data Interchange (EDI). The headings in these Conditions are for convenience only and shall not affect their interpretation.

### Basis of the sale

The Seller shall sell and the Buyer shall purchase the Products in accordance with any written or oral order of the Buyer which is accepted by the Seller, subject to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such order is made or purported to be made, by the Buyer. No variation to these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller. The Seller's employees or agents are not authorised to make any representations concerning the Products unless confirmed by the Seller in Writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed. Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Products which is not confirmed in Writing by the Seller is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.

Any description, specification or representation given in respect of any of the Products sold by the Seller in any leaflet, advertisement or any other promotional literature are approximate only and no liability shall lie with the Seller for any inaccuracies in such promotional material. Any typographical, clerical or other error or omissions in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller. The Seller may assign the Contract and any rights and obligations under it. The Contract is personal to the Buyer and the Buyer shall not, without the written consent of the Seller, assign or transfer or purport to transfer to any other person any of its rights or sub-contract any of its obligations under the Contract.

### Orders and Specifications

A quotation by the Seller does not constitute an offer and the Seller reserves the right to withdraw or revise a quotation at any time prior to the Seller's acceptance of the Buyer's order. No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in Writing by the Seller's authorised representative. Acceptance by the Buyer of the delivery of the Products shall (without prejudice to any manner in which acceptance of these Conditions may be evidenced) be deemed to constitute unqualified acceptance of these conditions. The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer. The quantity, quality and description of and any specification for the products shall be those set out in the Seller's quotation or, alternatively, the Buyer's order (if accepted by the Seller). No order which has been accepted by the Seller may be cancelled by the Buyer except with the agreement in writing of the Seller and on terms that the Buyer shall indemnify the Seller in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Seller as a

result of cancellation. The Seller may cancel any order it at any time before delivery.

### **Price of the Products**

The price of the products shall be the Seller's last quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Seller's published price list current at the date of acceptance of the order. All prices quoted are valid for 30 days only, or until earlier acceptance by the Seller of the Buyer's order, after which they may be altered by the Seller without giving notice to the Buyer. All prices include delivery where the order is for more than £100.00 otherwise a £7.50 delivery charge is payable unless otherwise stated in the Seller's quotation or price list. The Seller reserves the right, by giving notice to the Buyer at any time before delivery to increase the price of the Products to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture) any change in delivery dates, quantities or specifications for the Products which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions. The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller. Any queries on the Seller's invoices must be made by the Buyer in writing to the address stated by the Seller on the face of its invoice. The Seller will only consider such queries, which are received by it before the end of the month following the month of the relevant invoice.

### **Terms of Payment**

Unless otherwise agreed in Writing, payment is to be made on or before the due date, which appears, on the front of the invoice or where no due date is stated within 30 days from the date of invoice. Time for payment shall be of the essence. Failure to pay the amount due on the due date will render the entire debt of the Buyer to become payable immediately. All payments by the Buyer to the Seller shall be made without deduction or set-off. If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:

- (a) cancel the contract or suspend any further deliveries to the Buyer and/or
- (b) appropriate any payment made by the Buyer to such of the Products (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriating by the Buyer) and/or
- (c) charge the Buyer Interest (both before and after any judgement) on the amount unpaid, in accordance with The Late Payment of Commercial Debts (Interest) Act 1998, to run from the due date for payment until receipt by the Seller of the full amount whether before or after judgment (a part of a month being treated as full month for the purpose of calculating interest); and/or
- (d) charge the Buyer all costs reasonably incurred in the collection of any overdue amount including collection, agency and legal fees.

### **Delivery**

Delivery of the Products shall be made by the Seller (or a third party appointed by the Seller), delivering the Products to the place for delivery agreed by the Seller. Any dates quoted for delivery of the Products are approximate only and the Seller shall not be liable for any delay in delivery of the Products howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in Writing. The products may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer. If the Seller fails to deliver the Products once it has accepted the Buyer's order, for any reason other than any cause beyond the Seller's reasonable control or the Buyer's fault, and the Seller is liable under these conditions to the Buyer, the Seller's liability shall be limited to the excess (if any) of the cost to the Buyer (in the cheapest available market) of similar Products to replace those not delivered over the price of the Products.

## **Risk and property**

Risk of damage to or loss of the products shall pass to the Buyer:

- (a) in the case of Products to be delivered at the Seller's premises at the time when the Seller notifies the Buyer that the Products are available for collection.
- (b) in the case of Products to be delivered otherwise than at the Seller's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Products, the time when the Seller has tendered delivery of the Products.

Notwithstanding delivery and the passing of risk in the Products or any other provision of these conditions, the property in the products shall not pass to the Buyer until the Seller has received in cash or cleared funds payment in full of the price of the Products and all other Products agreed to be sold by the Seller to the Buyer for which payment is then due. Until such time as the property in the Products passes to the Buyer, the Buyer shall hold the Products as the Seller's fiduciary agent and bailee and the Buyer hereby acknowledges that there shall accordingly subsist a fiduciary relationship in respect of the Products between the Buyer and Seller, and shall keep the Products separate from those of the Buyer and third parties and properly stored, protected and insured and identified as the Seller's property. Until that time the Buyer shall be entitled to resell or use the Products in the ordinary course of its business subject to the express condition that the Buyer shall account to the Seller for the entire proceeds of sale or otherwise of the Products, whether tangible or intangible, including insurance proceeds and shall hold all such proceeds on trust for the Seller separate from any moneys or property of the Buyer and third parties and, in the case of tangible proceeds, properly stored, protected and insured. The Buyer shall keep records to be produced to the Seller whenever required, of the name and address of any such sub-purchaser and the date and contract price of each delivery and shall, if the Seller so requires in writing assign any such claims as the Buyer has against such Sub-purchaser as emanates from this transaction. Until such time as the property in the Products passes to the Buyer (and provided the Products are still in existence and have not been resold), the Seller shall be entitled at any time to require the Buyer to deliver up the Products to the Seller and if the Buyer fails to do so forthwith, to enter upon any premises of the Buyer or of any third party where the Products are stored and repossess the Products. The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Products which remain the property of the Seller, but if the Buyer does so all moneys owing by the Buyer to the Seller shall (without prejudice to any other right or remedy of the Seller) forthwith become due and payable. The Seller shall be entitled to bring an action against the Buyer for the price of the Products in the event of non-payment by the Buyer by the due date even though property in the Products has not passed to the Buyer and/or shall have the right by notice to the Buyer at any time after delivery to pass property in the Products to the Buyer as from the date of such notice. It is declared for the avoidance of doubt without prejudice to the generality of the foregoing that the Seller may recover the Products and payments shall become due if:

- (a) the Buyer does or fails to do anything which would entitle an administrator or an administrative receiver to take possession of any of its assets and which would entitle any person to present a petition to wind up the Buyer: and/or
- (b) the Buyer passes any resolution to wind itself up or publishes a notice convening a meeting of its creditors pursuant to Section 98 of the Insolvency Act 1986 or any statutory modification or replacement thereof: and/or
- (c) the Buyer, if an individual has a bankruptcy order made against it or enters into any agreement for the benefit of his Creditors generally.

Each of the preceding clauses and sub-paragraphs shall be construed and shall take effect separately and in the event of one or more such clauses or sub-paragraphs being held ineffective this shall not affect the validity of the remaining clauses or sub-paragraphs.

## **Warranties and liability**

The Seller warrants that the Products will at the time of delivery correspond to the description given by the Seller. Any claim by the Buyer which is based on any defect in the quality, quantity or condition of the Products or their failure to correspond with the description given by the Seller shall be notified to the Seller within 14 days from the

date of delivery (or where there is a defect or failure that was not apparent on reasonable inspection, within 14 days after discovery of the defect or failure or, if later, within 14 days of notification to the Buyer, by the Buyer's customer or otherwise, of such defect or failure and in any event within three months from the delivery date). If the Buyer does not notify the Seller accordingly, the Buyer shall not be entitled to reject the Products and the Seller shall have no liability for such defect or failure. In the case of shortages, if the Buyer does not notify the Seller within 14 days from the date of delivery, the Seller shall have no liability to compensate the Buyer for shortage claims. All other warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are to the fullest extent permitted by law, excluded from these Conditions. Where any valid claim in respect of any of the Products is based on any defect in the quality, quantity or condition of the Products or their failure to correspond with the description given by the Seller, and is notified to the Seller in accordance with these Conditions, the Seller shall replace the Products (or the amount in question) free of charge or, at the Seller's sole discretion, refund to the Buyer the price of the Products (or a proportionate part of the price), but the Seller shall have no further liability to the Buyer. The Buyer shall indemnify the Seller against all claims in respect of injury or property damage which are made or brought against the Seller for recovery of damages which are the result of the handling, storage, distribution, sale or promotion of the Product. Nothing in these conditions excludes or limits the liability of the Seller for death or personal injury caused by the Seller's negligence or fraudulent misrepresentation. Subject to the preceding sentence, the Seller shall not be liable for any indirect or consequential loss or damage (which expression shall include loss of profit, loss of business and depletion or goodwill), costs, expenses or other claims for consequential compensation whatsoever (however caused) which arise out of or in connection with these conditions. Save in respect of the matters for which the Seller does not exclude its liability, the maximum liability of the Seller shall in no event exceed the Seller's price of the Products which form the subject matter of any claim brought against the Seller.

### **Insolvency of Buyer**

This clause applies if: the Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction): or an encumbrance takes possession, or a receiver is appointed, of any of the property or assets of the Buyer: or the Buyer ceases, or threatens to cease, to carry on business: or the Seller reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies the Buyer accordingly. If this clause applies then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer, and if the Products have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

### **Compliance and Anti-corruption**

The Buyer shall not at any time 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. The Buyer shall comply with, and will not cause the Seller and its affiliates, associates, directors, officers, shareholders, employees, representatives or agents worldwide to be in violation of the United States Foreign Corrupt Practices Act (the "FCPA") or the UK Bribery Act 2010. Without limiting the foregoing, the Buyer 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 Seller or for itself or any of their respective affiliates. The Buyer 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. The Buyer must also (1) make and keep books, records and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and

dispositions of assets of the company, (2) devise and maintain a system of internal accounting controls, and (3) grant the Seller, upon receipt of written request, commercially reasonable access to said books, records, systems and accounts.

### **General**

Any notice, or other document required or permitted to be given by either party to the other under these Conditions shall be in Writing, addressed to that other party at its registered office or last known principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice or document. Where the means of giving any required or permitted notice or other document is not specifically stated in these Conditions such notice or document shall be given by ordinary pre-paid first class post, personal service, facsimile transmission to the required address, electronic mail or Electronic Data Interchange (EDI). Any notice or other document given by ordinary pre-paid first class post which is not returned to the sender as undelivered shall be deemed to have been given on the second business day after the notice or document was posted. Any notice or other document given by personal service or facsimile transmission shall be deemed to have been given on the date of such personal service or transmission, provided that if given by facsimile transmission a confirming copy is sent by ordinary pre-paid first class post within 24 hours after transmission. No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision. If any provision of these Conditions is held by a Court or any other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby. For the avoidance of doubt, nothing in any contract made subject to these Terms of Contract shall confer on any third party any benefit or the right to enforce any term within such agreement save and except where otherwise agreed in Writing by someone duly authorised on behalf of the Company. The Contract shall be governed by the laws of England and is subject to the jurisdiction of the English Courts.