

TERMS AND CONDITIONS OF SALE

The following SCHOTT Pharma USA, Inc. (“SCHOTT”) terms and conditions of sale as well as those terms and conditions in SCHOTT’s quotations and confirmations of an Order (collectively the “**SCHOTT Terms and Conditions of Sale**”) are exclusive and in lieu of all other terms and conditions appearing on Customer's forms or elsewhere. and these SCHOTT Terms and Conditions of Sale apply exclusively to all quotations, estimates and proposals made by SCHOTT as well as those Orders accepted by SCHOTT for SCHOTT products (“**Products**”). SCHOTT’s acceptance of an Order is limited to SCHOTT’s Terms and Conditions of Sale. Neither SCHOTT’s commencement of performance, nor confirmation of an Order, nor delivery of Products shall constitute acceptance of any conflicting, additional or different terms and conditions. SCHOTT’s failure to object to provisions contained in any Order or any other writing of Customer shall not be construed as a waiver by SCHOTT of the SCHOTT Terms and Conditions of Sale or an acceptance of any conflicting, additional or different terms and conditions.

1. Performance.

Performance of any Order received by SCHOTT is expressly conditioned upon acceptance by SCHOTT management.

2. Orders, Confirmations, Changes, and Cancellations.

a. Orders. All Orders placed with SCHOTT must be submitted to SCHOTT in writing or in an electronic form acceptable to SCHOTT. All such Orders must include the Customer’s name, the name of Customer’s contact, address, email address, telephone number, and fax number. Orders must also include the delivery address, Customer’s requested delivery dates, a complete description of the Products, and quantities of the Products being purchased. Orders will be binding on Customer only when SCHOTT has confirmed its acceptance in writing.

i. Orders requiring an export license will not be accepted until the export license has been obtained.

ii. Orders requiring a letter of credit will not be accepted until the letter of credit is received (unless otherwise negotiated prior to order acceptance) and meets SCHOTT’s standard terms for a letter of credit. No production will begin until payments terms are agreed upon.

b. Acceptance. SCHOTT’s Terms and Conditions of Sale are accepted by Customer unless Customer submits a written notice of objection to SCHOTT within twenty four (24) hours of Customer’s receipt of SCHOTT’s confirmation of the Order.

c. Changes to Orders. Delivery dates may not be rescheduled without SCHOTT’s written approval.

d. Cancellations. Customer may not cancel an Order in whole or in part without the written agreement of SCHOTT and on condition of Customer’s payment of SCHOTT’s cancellation charges.

- i. If SCHOTT agrees to cancel the Order, SCHOTT may assess Customer cancellation charges in the following amounts:
 1. twenty percent (20%) of the Order price for cancellation of any Order or part thereof for standard Products that can readily be resold to SCHOTT's other customers, or
 2. for custom or specially made Products, the Order must be cancelled before SCHOTT begins performance.
- ii. If SCHOTT begins performance on a custom or specially made Order, SCHOTT's cancellation charges may include:
 1. the Order price for all completed Products,
 2. with respect to non-completed Products, cancellation charges shall include:
 - y. an equitable charge as determined by SCHOTT based upon all costs (including but not limited to cost of materials purchased, labor, storage charges, handling, freight, duties and, taxes, and any destruction or recycling costs) incurred by SCHOTT in performance of the Order to the date of cancellation and that SCHOTT will thereafter reasonably incur as a result of such cancellation, and
 - z. a cancellation fee of 20% of the Order price.

Customer shall pay all cancellation charges due within thirty (30) days of invoicing by SCHOTT. SCHOTT's cancellation charges shall not be deemed SCHOTT's exclusive remedies in the event of an unauthorized order cancellation by Customer.

3. Prices.

a. The prices of the Products are those specified on SCHOTT's quotation or confirmation of the Order or, if no price is so specified, those in SCHOTT's price list current at the time of SCHOTT's acceptance of the Order. All prices printed in SCHOTT's price list or quoted to individual Customers are subject to change without notice.

b. Prices include standard packaging. Extra charges will be added for special packaging and/or for expediting delivery.

c. Prices for Products do not include any federal, state or local taxes, or other governmental charges, duties, or fees imposed on this Agreement or the manufacture, import, export, sale or use of the Products, which, when applicable, will be invoiced additionally and paid by Customer, unless Customer presents an exemption certificate acceptable to the taxing authorities.

d. Customer agrees to pay any processing fees if SCHOTT accepts credit card payment.

e. SCHOTT shall have the right to adjust the price of the Products that are the subject of the Order at any time in the event of an increase in SCHOTT's costs to supply the Products due to increases in the cost of energy, material, labor, freight/shipping, and/or governmental charges (such as duties or

taxes). The adjustment in the price shall be one corresponding to such increase in costs. SCHOTT will provide Customer with written notice of such price increase.

4. Payment.

a. Payment shall be due thirty (30) days after the date of SCHOTT's invoice unless otherwise specified in SCHOTT's quotation or Order confirmation. For Orders with multiple delivery dates, SCHOTT may invoice Customer and Customer shall pay for each delivery separately and each delivery shall be considered a separate and individual Order.

b. SCHOTT may charge Customer interest for all late payments computed on a daily basis from the due date until paid in full at the rate of one and one-half percent (1.5%) per month or the maximum rate permitted by law, whichever is less.

c. SCHOTT reserves the right to establish and/or change credit and payment terms extended to Customer when, in SCHOTT's sole opinion, Customer's financial condition or previous payment record warrants that action. Further, on a delinquent account, SCHOTT shall not be obligated to continue performance under the Order or any agreement with Customer.

d. SCHOTT retains a security interest in the Products delivered to Customer, and in their accessories, replacements, accessions, proceeds and products, including accounts receivable (collectively, the "**Collateral**"), to secure payment of all amounts due under this Agreement. If Customer fails to pay any amount when due, SCHOTT shall have the right to repossess and remove all or any part of the Collateral from Customer but not from customers of Customer. Any repossession or removal shall be without prejudice to any other remedy of SCHOTT at law or in equity. Customer agrees to take any acts and execute and deliver any documents (including, without limitation, financing statements) reasonably requested by SCHOTT to transfer, create, perfect, preserve, protect and enforce this security interest.

e. Customer is responsible for and shall pay all costs, fees and expenses, including reasonable attorneys' fees and the fees of collection agencies, incurred by SCHOTT in enforcing any of the terms, conditions or provisions hereof or in protecting SCHOTT's rights herein or with respect to past due accounts of Customer.

5. Shipments.

a. Unless otherwise agreed to in writing by SCHOTT, all prices quoted or printed in SCHOTT's price list are F.O.B. SCHOTT's premises or those of SCHOTT's supplier or, with respect to imported goods, F.O.B. United States point of shipment.

b. Customer agrees that all freight, express and delivery charges shall be paid by Customer and shall not be subject to discount.

c. If SCHOTT has agreed with Customer to arrange for shipping of Products, SCHOTT will select the carrier in the absence of specific instructions by Customer and all shipments shall be freight collect, unless otherwise negotiated.

d. In no event shall SCHOTT be liable for any delay in delivery nor shall the carrier be deemed an agent of SCHOTT.

e. Delivery will be deemed complete and risk of loss or damage to the Products will pass to Customer upon delivery to the carrier.

6. Inspection and Acceptance; Variations and Returns.

a. Inspections. Customer shall have the right to inspect the Products at the time and place of delivery before accepting them. After inspecting the Products in a delivered Order, if Customer claims that the Products do not conform to the specifications issued by SCHOTT and SCHOTT confirms that the Products do not conform to the specifications, SCHOTT's sole obligations and Customer's exclusive remedies with respect to the non-conforming Products shall be, at SCHOTT's option, to repair or to replace the Products or to refund to Customer the purchase price paid for the Products.

b. Acceptance & Variance. The Products shall be deemed accepted by Customer unless notice of defect or shortage is received within thirty (30) days of shipping and the defective Products are returned to SCHOTT within sixty (60) days of shipping. At SCHOTT's sole discretion, deliveries may vary by a margin of up to ten percent (10%) more or less than the quantities in the confirmed Order. In case of such a variance, Customer agrees to accept and pay for the delivered quantities.

c. Returns. Returned Products must be in their original packaging and be in new condition. No Products may be returned to SCHOTT without SCHOTT's prior written authorization. SCHOTT will bear the return cost for the return of non-conforming Products; however, if the Products are found to be within the specifications, then Customer shall be responsible for all costs associated with the return of the Products. Customer shall be responsible for any damage to returned Products resulting from handling by Customer with less than due care.

7. Ownership of Production Tooling, Materials and Equipment, No License Granted.

a. Unless otherwise agreed in writing by SCHOTT and Customer, all material, equipment, facilities, and tooling used in the manufacture of the Products shall remain the property of SCHOTT.

b. SCHOTT shall not be responsible for any Customer furnished materials or tooling that may be damaged during processing or manufacturing.

c. SCHOTT's supply of Products to Customer does not in any way convey or grant to Customer any license or right to make, have made or use the Products or any additional products (whether or not identical to the Products) under any past or future patents and/or inventions owned, made or controlled by SCHOTT.

8. Warranty.

a. SCHOTT warrants to Customer that at the time of delivery all Products will conform to and perform in accordance with the applicable current specifications issued by SCHOTT.

b. Any Products sold by SCHOTT with any additional express written warranties shall be subject to the specific terms and conditions of those warranties. The duration of any Products warranty given by SCHOTT shall be limited to the applicable warranty duration stated in writing by SCHOTT. If no warranty duration is specified by SCHOTT, then the warranty duration shall be thirty (30) days from the date of shipping to Customer.

c. Unless otherwise agreed to in writing by SCHOTT, no warranty shall extend to or be for the benefit of any third party.

d. No warranty shall apply to any Product that is subject to misuse, abuse, accident, disaster, or repair by anyone other than SCHOTT, or that has been used contrary to instructions from SCHOTT.

e. Customer will be deemed to have waived any warranty claim unless written notice of such claim is given to SCHOTT promptly but in no event later than thirty (30) days from date of discovery of such breach of warranty.

f. SCHOTT'S ENTIRE RESPONSIBILITY AND CUSTOMER'S EXCLUSIVE REMEDIES FOR ANY BREACH OF WARRANTY IS LIMITED, AT SCHOTT'S OPTION, TO REPAIR OR REPLACEMENT OF THE PRODUCTS OR REFUND OF THE PURCHASE PRICE PAID FOR THE PRODUCTS THAT ARE THE SUBJECT OF THE WARRANTY CLAIM.

g. THE FOREGOING WARRANTIES ARE THE SOLE WARRANTIES, EXPRESS OR IMPLIED, GIVEN BY SCHOTT IN CONNECTION WITH THE PRODUCTS, AND SCHOTT DISCLAIMS ALL OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

9. Assignment.

The Order shall not be assigned in whole or in part without the written consent of SCHOTT. SCHOTT, however, may assign its rights, liabilities and obligations arising out of the Order to one or more of its subsidiary or affiliated companies.

10. Statute of Limitations.

No claim or cause of action by Customer arising from this Agreement may be brought at any time more than twelve (12) months after the facts occurred upon which the claim or cause of action arose.

11. Export Control.

Customer shall comply with all applicable U.S. export laws, regulations and treaties relating to export or re-export of the Products. Customer will defend, indemnify and hold SCHOTT harmless for any claims, penalties, fines, damages or costs to SCHOTT arising from Customer's failure to comply with this provision.

12. Limitations of Liability.

SCHOTT'S ENTIRE AND AGGREGATE LIABILITY FOR ALL CLAIMS ARISING FROM OR RELATING TO THIS AGREEMENT, WHETHER FOR INFRINGEMENT, BREACH OF WARRANTY OR CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE SHALL NOT EXCEED SCHOTT'S NET SALES PRICE FOR THE PRODUCTS PURCHASED UNDER THIS AGREEMENT THAT CREATE SUCH LIABILITY. SCHOTT SHALL NOT BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES FOR ANY CLAIM MADE ARISING FROM OR RELATING TO THIS AGREEMENT, THE PRODUCTS, OR THE SALE, INSTALLATION, MAINTENANCE, USE, PERFORMANCE OR NON-PERFORMANCE OF THE PRODUCTS, OR OTHERWISE.

13. Governing Law.

The construction, interpretation and performance of this Agreement and all transactions under it shall be governed by the laws of the State of New York excluding its conflict of laws provisions. SCHOTT and Customer specifically exclude the application of the United Nations Convention on Contracts for the International Sale of Goods to this Agreement.

14. Choice of Forum.

Any and all claims or actions challenging the validity, interpretation or performance of this Agreement shall be brought in the state or federal courts located in New York county or Westchester county within the state of New York and the parties hereby consent to the personal jurisdiction and venue of such courts with respect to such claims or actions. Notwithstanding the foregoing, SCHOTT may seek interim injunctive relief in any court of appropriate jurisdiction.

15. Force Majeure.

Except for the payment of money due and owing, neither party shall be held responsible for any delay or failure in performance of any part of this Agreement to the extent that delay or failure is caused by causes beyond its reasonable control ("**Force Majeure Condition**"), including, but not limited to, fire, flood, earthquake, typhoon, hurricane, epidemic, pandemic, other natural phenomena, explosion, war, invasion, terrorist threats or acts, riots, civil unrest, explosion, strike, labor dispute, embargo, government requirement, civil or military authority, act of God, act or omission of carriers or other similar causes and, with respect to SCHOTT, inability to reasonably obtain necessary labor, materials, components or manufacturing facilities ("**Force Majeure Condition**"). If any Force Majeure Condition occurs, the party delayed or unable to perform ("**Delayed Party**") shall give immediate notice to the other party ("**Affected Party**"), and the Delayed Party, upon giving prompt notice to the Affected Party, shall be excused from performance under this Agreement for the duration of the Force Majeure Condition; provided, however, that the Delayed Party shall take all reasonable steps and cooperate with the Affected Party to avoid or remove the cause of nonperformance and shall resume performance hereunder with dispatch when the cause is removed. If the Delayed Party cannot within sixty (60) days remove the cause of nonperformance, the Affected Party may terminate this Agreement. If Force Majeure Conditions cause shortages in SCHOTT's supply of Products or materials necessary to produce the Products, SCHOTT may, without obligation to obtain similar products or such materials from other sources, first satisfy its own requirements and the requirements of its divisions, subsidiaries and affiliates for such materials and Products and then allocate the remainder among its customers in a manner and amount that, in SCHOTT's sole judgment, is fair and reasonable.

16. Non-Waiver.

No course of dealing or failure of either party to strictly enforce any term, right or condition of this Agreement shall be construed as a waiver of that term, right or condition.

17. Entire Agreement.

SCHOTT's Terms and Conditions of Sale shall constitute the entire agreement between the parties with respect to the sale of the Products (the "**Agreement**") and shall not be modified, waived, or rescinded,

except by a writing signed by SCHOTT and Customer. The provisions of this Agreement supersede all prior oral and written communications, agreements, and understandings of the parties with respect to the subject matter of this Agreement. If any provision of this Agreement is held to be invalid or unenforceable by a court or other body of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of this Agreement or of any other provision of this Agreement and the invalid or unenforceable provision shall be replaced by a legally valid and enforceable provision coming closest to achieving the same result (to the maximum legal extent) as the invalid or unenforceable provision.