

## CONDITIONS OF PURCHASE

1. In these conditions of purchase ("**Conditions**") "**HBP**" means Helsinn Birex Pharmaceuticals Ltd and the "Seller" means the company, organisation or individual to which a purchase order ("**Order**") is addressed or from whom goods or materials ("**Goods**") or services ("**Services**") are purchased, the Order, Conditions and any other related specifications or documents collectively referred to as the "**Contract**".
  2. These Conditions apply to any contract of purchase formed between HBP and the Seller, to the exclusion of any other terms or conditions printed on or referred to on any documents issued by the Seller. Any such different terms and conditions shall not apply to the Contract and shall be deemed not to constitute a counter offer. Any supply of goods or services shall be deemed to be subject to these Conditions.
  3. Any Specification supplied by HBP to the Seller, or specifically produced by the Seller for HBP, in connection with the Contract, together with the copyright, design rights or any other intellectual property rights in the Specification, shall be the exclusive property of HBP. The Seller shall not disclose to any third party or use any such specification except to the extent that it is or becomes public knowledge through no fault of the Seller, or as required for the purpose of the Contract.
  4. The Goods shall be delivered to, and the Services shall be performed at the delivery address specified on the Order on the date or within the period stated in the Order, in either case during HBP's usual business hours.
  5. In the event of Seller's failure to deliver as and when specified, HBP reserves the right to cancel this Order or any part thereof without prejudice to its other rights, and Seller agrees that HBP may return part or all of any shipment so made and may charge Seller with any loss or expense sustained as a result of such failure to deliver.
  6. HBP shall be entitled to reject any Goods delivered which are not in accordance with the Contract, and shall not be deemed to have accepted any Goods until HBP has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent.
  7. HBP shall not be obliged to return to the Seller any packaging or packing materials for the Goods, whether or not the Goods are accepted by HBP.
  8. HBP shall be entitled to cancel an Order in respect of all or part only of the Goods and/or the Services by giving notice to the Seller at any time prior to delivery or performance, in which event HBP's sole liability shall be to pay to the Seller the price for the Goods or Services in respect of which HBP has exercised its right of cancellation, less the Seller's net saving of cost arising from cancellation.
  9. Without prejudice to any other remedy, if any Goods or Services are not supplied or performed in accordance with the Contract, then HBP shall be entitled:
    - (a) to require the Seller to repair the Goods or to supply replacement Goods or Services in accordance with the Contract within 7 days; or
    - (b) at HBP's sole option, and whether or not HBP has previously required the Seller to repair the Goods or to supply any replacement Goods or Services, to treat the Contract as discharged by the Seller's breach and require the repayment of any part of the Price which has been paid.
  10. Invoices should be in euro and price quoted includes all costs including, but not limited to, delivery and insurance to HBP premises or delivery to a carrier acting on behalf of HBP.
  11. HBP agrees to pay Seller the price for Services provided Seller has satisfactorily performed the Services within the time frames specified.
  12. No increase in the price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without giving HBP 3 months prior notice and receiving written acceptance from HBP.
  13. HBP shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Seller, whether or not shown on its own terms and conditions of sale.
  14. Credit terms are 60 days from date of receipt of invoice, subject to all details on the invoice being consistent with those shown on the Order, unless otherwise agreed.
  15. Seller shall be reimbursed for reasonable expenses specified on an Order. Invoices for expenses must contain detailed itemisations and be accompanied with bills, invoices, or other documentation of payment.
  16. Please note HBP is VAT exempt; VAT exemption number is available upon request.
  17. Claims for credit or payment due to HBP, in respect of returned Goods, short deliveries, overcharges or other matters for which the Seller is liable under these Conditions, shall be settled within one month from the date of use of such claims, and in any event HBP shall be entitled to set off any credits or payment due against any remittances due to the Seller.
  18. HBP, at its discretion, may withhold the whole or part of any payments to Seller to such extent as may be necessary to protect HBP from loss, due to, but not limited to the following causes:
    - (a) defective work not corrected;
    - (b) damage to personnel or property of HBP or a third party caused by any act, omission or negligence of Seller, or its agents or employees;
    - (c) the breach of any of the provisions of this Agreement by the Seller; or
    - (d) failure of Seller to complete any Order in a timely fashion.
  19. HBP shall have no liability whatsoever in respect of any Goods sent otherwise than in response to a formal Order, on official HBP stationery and incorporating an official purchase order number.
  20. Title and risk in all Goods supplied pursuant to an Order shall pass to HBP when the Goods in question are unloaded at the delivery address specified by, or delivered to a carrier acting on behalf of HBP, unless payment for Goods has been made prior to delivery, when title shall pass to HBP on payment.
  21. If Goods are covered by statutory or other safety regulations the Seller shall provide all certification or other information required by the regulations or deemed necessary by HBP to verify compliance with the regulations.
  22. The Seller shall comply with HBP Quality Assurance Policy and any specific quality programme adopted by HBP, and shall permit access by authorised representatives of HBP at any reasonable time to inspect any premises where Goods are manufactured or stored, and to examine materials to be used in such manufacture. Any such compliance, assistance, inspection or examination shall not constitute a waiver of the Seller's other obligations under these Conditions.
  23. Seller shall be responsible for complying with all relevant safety laws and regulations and for taking all necessary safety precautions in connection with the performance of the Contract in order to protect all persons and property.
  24. Operating in the pharmaceutical industry HBP must comply with current good manufacturing practise (cGMP) for manufacturing pharmaceuticals. Seller shall provide additional documentation and certification when necessary. Cost of same shall be included in the price unless otherwise specified.
  25. The Seller agrees that, in its relationship with HBP it is acting in the capacity of an independent contractor and that the Seller and its agents, independent contractors, sub-contractors or employees, (whether employed directly or indirectly by the Seller) ("Supplier Personnel") have no authority to represent or act on behalf of HBP without HBP's prior written consent. No Seller Personnel shall hold themselves out to any third person as purporting to act on behalf of, or serving as the agent of, HBP, and the Seller Personnel are not authorized to enter into any agreements, whether oral or written, on HBP's behalf.
  26. Insofar as the Seller supplies agency workers to HBP, within the meaning of the Protection of Employment (Temporary Agency Work) Act 2012, the Seller acknowledges that any temporary agency worker shall be an employee or an independent sub-contractor employed/engaged directly by the Seller. Nothing in these Conditions or in an Order shall render the temporary agency worker (or any of them) employees, workers, agents or partners of HBP and the Seller shall ensure that the temporary agency workers shall not hold themselves out as such an employee of HBP for any reason whatsoever.
  27. For the avoidance of doubt, it is the intention of HBP and the Seller that none of the Seller Personnel or any other person shall transfer to the employment of HBP pursuant to the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003.
  28. No Seller Personnel shall be entitled to avail of or participate in any HBP employee recognition/reward schemes; staff discount schemes, incentive schemes or any HBP employee scheme or arrangement of any nature whatsoever.
  29. The Seller shall be fully responsible for all employer's obligations relating to the Seller Personnel including without limitation:
    - (a) paying all salaries, wages, benefits, compensation and other remuneration that the Seller Personnel may be entitled to receive whether in connection with the purchase of Goods or Services or otherwise;
    - (b) paying and reimbursing the Seller Personnel for all travel, housing and other business expenses that such Seller Personnel may be entitled to receive in connection with the purchase of Goods or Services or otherwise;
    - (c) all matters pertaining to grievances, discipline, termination of employment, redundancy, absenteeism, poor performance and labour relations;
    - (d) withholding and paying all applicable Irish and/or foreign payroll taxes and contributions, including but not limited to, Irish income taxes, pay related social insurance, health levies, universal social charge, pension contributions or any other similar statutory or agreed obligations;
    - (e) any liability for any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by any Seller Personnel against HBP arising out of or in connection with the purchase of Goods or Services or otherwise;
    - (f) ensuring that all regulations and obligations relative to the Seller Personnel (including without limitation in relation to permission to work in Ireland, minimum wage and working time records) are complied with;
  - (g) ensuring that Seller Personnel are made aware of and comply with all relevant terms and conditions of this Order including any applicable HBP policies notified to the Seller from time to time including but not limited to safety regulations, HBP's safety statement and HBP's policies on site safety standards;
  - (h) ensuring that when the Seller Personnel attend HBP designated premises to provide Goods or Services, the Seller Personnel comply with all applicable health and safety legislation and without prejudice to the generality of the foregoing, that the Seller Personnel shall comply with HBP's health and safety policies and report to HBP any unsafe working conditions or practices; and
  - (i) all of its obligations to the Seller Personnel pursuant to the Protection of Employees (Temporary Agency Work) Act 2012.
30. The Seller shall assume full liability for and shall indemnify, protect and hold harmless HBP and its associated companies and each of their respective current and former employees, agents and officers, from and against any and all costs, claims, actions, proceedings, demands, awards, penalties, fines, liabilities, losses, damages and expenses (including legal and other professional charges and expenses), whether at common law, in equity, in tort, in contract or pursuant to statute, which HBP may incur in relation to any of the Seller Personnel ("**Employment Liabilities**") including but not limited to Employment Liabilities arising from or relating to:
  - (a) his/her employment by the Seller or the termination of such employment;
  - (b) his/her non-employment by HBP;
  - (c) any act or omission of the Seller or any breach by the Seller of any law, statute, regulation of statutory instrument or code of practice;
  - (d) breach of statutory duty, contract, unfair dismissal, wrongful dismissal, loss of office, redundancy, loss of earnings, notice, claims for termination payments or otherwise;
  - (e) claims under the Unfair Dismissals Acts 1977 – 2007 and in particular, claims under Section 13 of the Unfair Dismissals (Amendment) Act 1993 or any claim to the effect that any Seller Personnel is a deemed employee of HBP;
  - (f) claims pursuant to the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003;
  - (g) any assessment of income tax, VAT, social insurance or comparable taxes or duties (including associated costs, penalties and/or interest) in connection with:
    - (i) the payment of the rates to the Seller and/or
    - (ii) the performance of the Seller's obligations under an Order by the Seller Personnel;
  - (h) any order or award by any Tribunal, Court or third party arising out of a determination that the Seller Personnel are employees of HBP whether pursuant to the Unfair Dismissals Acts 1977-2007 or pursuant to the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 or otherwise;
  - (i) any claim under the Employment Equality Acts 1998 – 2012, the Safety, Health and Welfare at Work Act 2005, or any statutory amendment or re-enactment thereof;
  - (j) any claim under the Protection of Employees (Temporary Agency Work) Act 2012;
  - (k) any damage caused to persons or property or any other losses caused by the wilful or negligent acts or omissions of any of the Seller Personnel while attending any premises of HBP; or
  - (l) any expenses incurred by HBP in connection with the foregoing including legal costs.
31. HBP agrees to give the Seller:
  - (a) prompt written notice of any claims made for which HBP knows or the Seller or its Affiliates or the Seller Personnel reasonably should know the reasonably may be liable for under the "Seller Personnel" section of these Conditions;
  - (b) the opportunity to defend, negotiate, and settle such claims provided that HBP shall not be responsible to or bound by any settlement made without its prior written consent; and
  - (c) all information in its possession and all assistance necessary to enable the Seller to carry on the defence of such claims.
32. In addition and without prejudice to all other conditions or warranties expressed or implied, the Seller by supplying Goods or Services to HBP expressly warrants that such Goods or Services (including any labels, packaging or literature) will:
  - (a) conform to the descriptions and quantities ordered;
  - (b) conform to all relevant specifications, general requirements specifications, and supply specifications as such terms may be defined in an Order;
  - (c) comply with the requirements of all applicable Irish or European standards and all other requirements (whether national or international) which apply to such Goods or Services. Seller's warranty of compliance shall survive any agreement by HBP to any Specification or variation thereof or to any design or alteration thereof; or
  - (d) be fit and sufficient for the purpose intended, merchantable and of good material and workmanship, and (in the case of Services) be carried out with reasonable care and skill.
33. Seller agrees to indemnify, defend, and hold harmless HBP, its trustees, officers, agents, and employees, of, from, and against any and all claims and demands which may arise in any way out of the furnishing of Goods or Services hereunder, including, without limitation, claims and demands arising from injury to or death of personnel of HBP or for damage to the property of HBP, except those arising by reason of the negligent or wilful act of HBP, its officers agents, or employees.
34. Seller shall provide to HBP evidence of Errors and Omissions or Professional Liability insurance in an amount not less than €1,000,000, each claim and €3,000,000, each occurrence.
35. Seller represents that it has in force and effect throughout the life of this contract, workers compensation insurance to the extent required by law.
36. HBP shall be entitled to terminate the Contract without liability to the Seller at any time if:
  - (a) the Seller becomes bankrupt or is voluntarily wound up (within the meaning of the Companies Act, 1963) or a petition is presented for the appointment of a liquidator, an Examiner or other insolvency official to, or the protection of the court is sought by the Seller (or the taking or happening of any measure of equivalent effect or purpose); or
  - (b) an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Seller; or
  - (c) the Seller ceases, or threatens to cease, to carry on business; or
  - (d) HBP reasonably apprehends that any of the events mentioned above is about to occur in relation to the Seller and notifies the Seller accordingly.
37. Neither the Seller or HBP shall be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Goods or the Services, if the delay or failure beyond was beyond that party's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond either party's reasonable control: act of God, explosion, flood, tempest, fire or accident, war or threat of war, sabotage, insurrection, civil disturbance, import or export regulations or embargos, strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of either the Seller or HBP or of a third party), difficulties in obtaining raw materials, labour, fuel, parts or machinery, power failure or breakdown in machinery.
38. These Conditions may only be varied with the express written agreement of HBP.
39. HBP may at any time insist upon strict compliance with these Conditions notwithstanding any previous custom, practice, or course of dealing to the contrary and no waiver by HBP of any breach of the Conditions by the Seller shall be considered as a waiver of any subsequent breach of the same or any other provision.
40. The Seller agrees not to use the name of HBP or to quote the opinion of any of HBP's employees in any advertising without obtaining the prior written consent of HBP.
41. Any notice 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 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 notice.
42. If any provision of these Conditions is held by any 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.
43. Seller may not assign any portion of the work, or any obligation hereunder without the prior written consent of HBP.
44. All contracts, to which these Conditions apply, shall be governed by the law of Ireland, and the Seller agrees to submit to the non-exclusive jurisdiction of the Irish courts.

HBP/06/WC53569