

## DISCOUNT AGREEMENT- NON-GPO HOSPITAL INDIRECT PURCHASES

**THIS DISCOUNT AGREEMENT- NON-GPO HOSPITAL INDIRECT PURCHASES** ("Agreement") is entered into as of the date signed by Takeda below (the "Effective Date") by and between Takeda Pharmaceuticals America, Inc. with offices located at 95 Hayden Drive, Lexington, MA 02421 ("Takeda") and the undersigned Provider (as defined below).

This Agreement sets forth the terms and conditions under which Takeda will make the Contract Price (as defined below) available to Provider for Eligible Utilization (as defined below).

**1. DEFINITIONS.** As used herein, the following terms shall have the following meanings:

**(A) "Authorized Specialty Distributor"** shall mean any distributor identified on Exhibit A attached hereto (as may be amended from time to time as set forth herein) which has entered into an agreement with Takeda to distribute the Product.

**(B) "Contract Price"** shall mean the applicable price listed in Exhibit B.

**(C) "Discount"** shall mean WAC price minus the Contract Price.

**(D) "Eligible Utilization"** shall mean Product administered by Provider, as determined solely by Takeda, based upon data available to Takeda.

**(E) "Pricing Periods"** shall mean the Effective Date through May; June through August; September through November; December through February; and March through May of each year.

**(F) "Provider"** shall mean a hospital or integrated delivery network, but shall exclude any use in the home setting or shipment to patient's home.

**(G) "Product(s)"** shall mean the products listed in Exhibit B.

**(H) "WAC"** shall mean the wholesale acquisition cost for Product established by Takeda in effect as of the Authorized Specialty Distributor's invoice date for the applicable Product.

### 2. PRODUCT PURCHASES.

**(A)** Subject to Subsection 2(B) below, provided that Provider has met the requirements in Exhibit B Provider shall be entitled to purchase Product from its Authorized Specialty Distributor at the Contract Price for all Eligible Utilization. Takeda shall require each Authorized Specialty Distributor to honor the Contract Price on eligible purchases of Product the Provider makes from such Authorized Specialty Distributor.

**(B)** Provider shall not be entitled to the Contract Price for any Product purchased:

(i) prior to the Effective Date or following termination of this Agreement;

(ii) from any person or entity other than an Authorized Specialty Distributor;

(iii) for any purpose other than Provider's "own use." "Own use" expressly excludes the dispensing of Product to non-patients or to any person or entity for resale purposes;

(iv) for any purpose other than Provider's "own use." "Own use" expressly excludes the dispensing of Product to non-patients or to any person or entity for resale purposes;

(v) under a GPO agreement; or

(vi) at pricing available through the 340B Drug Pricing Program under the Public Health Service Act.

(vii) Supply of all Products is subject to availability. Takeda shall not be responsible for payment of any discounts claimed due to back order or other supply availability issues.

**(C)** Provider shall ensure that Product purchased pursuant to this Agreement is administered only in those locations shown in Exhibit C or the patient's home, as may be amended from time to time as set forth herein. Provider shall promptly notify Takeda of any change to Exhibit C. Takeda shall promptly respond to any such notice with its approval or rejection of the change. Exhibit C shall be deemed automatically amended for each change effective upon Takeda's approval of such change. Changes to Exhibit C will not qualify for discount pricing until after Takeda has received notification from the Provider.

**(D)** Provider shall purchase Product to meet reasonable patient demand and shall not forward buy, speculate, or take any other action that would cause it to stock Product in an amount that exceeds projected patient need.

**(E)** Any Product return (including any such return in connection with a Product recall) shall be made to the Authorized Specialty Distributor from whom such Product was purchased in accordance with the Authorized Specialty Distributor's return policy or other instructions.

**(F)** During the Term of this Agreement and for two (2) years following its expiration or earlier termination, Takeda shall have the right, at its own expense, to audit Provider's books and records, after providing at least 2 weeks written notice of such audit, for the purpose of verifying Provider's compliance with the terms of this Agreement. Provider shall use all reasonable efforts to remove any patient identifiable information in connection with any such audit.

**3. TERM AND TERMINATION.** This Agreement shall take effect on the Effective Date and shall remain in effect through December 31, 2024 ("Term") unless terminated as permitted herein. Either party may remove a Product or terminate this Agreement for convenience and without cause by providing written notice to the other party at least thirty (30) days in advance of the intended termination date.

**4. CONFIDENTIALITY AND INJUNCTIVE RELIEF.** Each party acknowledges that, in connection with this Agreement, it will have access to and gain knowledge of confidential and proprietary information of the other party. "Confidential Information" means written or oral proprietary information and trade secrets of a party including, but not limited to, the existence and terms of this Agreement, information related to cost and pricing data, programs, and financial information. Each party shall keep Confidential Information confidential and shall not, without the prior written consent of the other party, use or disclose Confidential Information except: (i) to its employees, agents and advisors who have a need to know such Confidential Information, and are bound by written obligations of confidentiality and non-use at least as restrictive as those contained in this Agreement; and (ii) as otherwise necessary to satisfy its obligations and exercise its rights under this Agreement.

**5. DISCOUNTS.** Each party agrees that the Discounts available under this Agreement on Product purchases constitute a "discount" within the meaning of Section 1128B(b) of the Social Security Act and its implementing regulations (42 C.F.R. 1001.952(h)) and must be fully and accurately reported by Provider as required by those provisions and any other

applicable federal or state requirements. In addition, if costs of Provider's purchases of Product are reported in cost reports submitted to government programs, the value of any Discounts provided under this Agreement shall be accurately reported on the applicable report filed in the year the Discounts are earned or the following year. Upon request, Provider shall provide access to the Secretary of the U.S. Department of Health and Human Services or a state health care program to information related to the Discounts provided under this Agreement. In the event that Provider provides such information to a government agency, Provider agrees to promptly notify Takeda.

**6. GROUP PURCHASING ORGANIZATION.** Provider represents that it has notified its group purchasing organization(s) ("GPO") in writing that purchases under this Agreement will not be subject to the terms of any group purchasing agreement.

**7. DISPUTE RESOLUTION.** If any Authorized Specialty Distributor refuses to sell Provider any Product at the Contract Price, or if Provider disputes the amount of the Contract Price for any purchase, Provider may appeal such action by submitting a written request to Takeda to the email address listed below. Takeda shall be the final arbiter of disputes with respect to Provider's eligibility to purchase Product at the Contract Price and with respect to the amount of the Contract Price.

**8. WARRANTY.** Takeda warrants that Products will not, at the time of shipment by Takeda, be adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act, as amended, nor will such Products be an article which may not, under provisions of sections 404 and 505 of said act, be introduced into interstate commerce. Unless the Products are used in accordance with their instructions, these warranties are void and of no effect. THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. TAKEDA'S SOLE OBLIGATION AND PROVIDER'S EXCLUSIVE REMEDY FOR BREACH OF ANY WARRANTY SHALL BE, AT TAKEDA'S OPTION, TO REPAIR OR REPLACE THE PRODUCTS.

**9. INDEMNITY.** Each party (each an "Indemnifying Party") shall indemnify, defend and hold the other party and its Affiliates (each an "Indemnified Party") harmless from any third

party liability, loss, claim, injury, damage or expense (including reasonable attorneys' fees and costs) incurred by the Indemnified Party as a result of and to the extent of: (i) any negligent or willful act or omission by the Indemnifying Party; and (ii) any misrepresentation or breach of this Agreement by the Indemnifying Party.

#### **10. MISCELLANEOUS.**

**(A)** This Agreement contains the entire agreement of the parties with respect to the subject matter hereof and, except as expressly contemplated herein with respect to modifications to Exhibit C, no modification, amendment or waiver of any of the provisions of this Agreement shall be effective unless in writing and signed by both parties.

**(B)** Neither party may assign this Agreement or delegate any right or obligation without the other party's prior written consent, except that either party may assign this Agreement without consent to an affiliate under common ownership with the transferring party ("Affiliate").

**(C)** The validity, interpretation, construction, performance and enforcement of this Agreement and any dispute connected herewith shall be governed by and construed in accordance with the laws of the State of Indiana, without regard to its conflict of laws principles.

**(D)** If any one or more provisions of this Agreement is held to be invalid, illegal or unenforceable, the provision shall be considered severed from this Agreement and shall not serve to invalidate any remaining provisions hereof.

**(E)** This Agreement may be executed in one (1) or more duplicate originals, all of which together shall be deemed one and the same instrument. Execution of this Agreement by facsimile, by email in "portable document format" (".pdf"), or by any other electronic means intended to preserve the original graphic and pictorial appearance of this Agreement shall be binding to the same extent as physical delivery of the paper document bearing original signature.

**(F)** Sections 2(E), 2(F), 4, 5, 6, 7 and 8 shall survive any expiration or other termination of this Agreement.

**IN WITNESS WHEREOF,** the parties hereto have executed this Agreement as of the Effective Date.

#### **TAKEDA PHARMACEUTICALS AMERICA, INC.**

DocuSigned by:  
By: Fabien Dubois  
3C8C76AC80FC46A... (signature)

Name: Fabien Dubois

Title: CFO US Business unit

Date: 03-Jan-2022 | 17:28 EST

#### **Takeda Contact Person:**

Attn: Contracts & Pricing Team  
Takeda Pharmaceuticals America, Inc.  
730 Stockton Drive  
Exton, Pennsylvania

#### **INDIANA UNIVERSITY HEALTH, INC.**

DocuSigned by:  
By: Michelle Janney  
7173F94BC5854EA... (signature)  
DocuSigned by:  
Jennifer M Alvey  
213162C84C974DC...

Name: Michelle Janney Jennifer M Alvey

Title: COO CFO

Date: 12/30/2021 | 08:44:30 PST 12/30/2021 | 09:21:52 EST

#### **Provider Contact Person:**

Bill Shaw  
Indiana University Health  
Director Statewide Pharmacy Purchasing & Logistics  
317-962-6389  
wshaw@iuhealth.org

**EXHIBIT A****Product Distributors**

Provider may purchase Product from the following Authorized Specialty Distributors:

<b>AUTHORIZED SPECIALTY DISTRIBUTOR NAME</b>
CARDINAL HEALTH 7000 Cardinal Place Dublin, OH 43017

## EXHIBIT B

**GAMMAGARD PRODUCTS:****AGGREGATE GAMMAGARD PRODUCT VOLUME COMMITMENT: 7,250 grams per quarter**

<b><u>ITEM CODE</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>CONTRACT PRICE as of 1/1/22*</u></b>	<b><u>CALCULATED PRICE as of 1/1/22**</u></b>
Gammagard Liquid 1500190 NDC # 00944-2700-02	1.0 gram in 10 mL	\$72.51/gm*	\$72.51
Gammagard Liquid 1500189 NDC # 00944-2700-03	2.5 gram in 25 mL	\$72.51/gm*	\$181.28
Gammagard Liquid 1500188 NDC # 00944-2700-04	5.0 gram in 50 mL	\$72.51/gm*	\$362.55
Gammagard Liquid 1500187 NDC # 00944-2700-05	10.0 gram in 100 mL	\$72.51/gm*	\$725.10
Gammagard Liquid 1502797 NDC # 00944-2700-06	20.0 gram in 200 mL	\$72.51/gm*	\$1,450.20
Gammagard Liquid 1502346 NDC # 00944-2700-07	30.0 gram in 300 mL	\$72.51/gm*	\$2,175.30

\*Gammagard Contract Price is subject to increases of up to four percent (4%) or the Medical CPI per year, whichever is greater, effective on and after January 1, 2024. To be eligible for the Gammagard Contract Price Provider must be in full compliance with the terms and conditions of this Agreement including, but not limited to, purchasing under this Agreement the Aggregate Gammagard Product Volume Commitment.

\*\* Calculated Price shall be the then-current Contract Price multiplied by the number of units in the Item.

Within forty-five (45) days after each calendar quarter, Takeda will calculate the aggregate quantity of Gammagard Products purchased under this Agreement by Provider during the calendar quarter and determine Provider's eligibility for the Gammagard Contract Price for the next Pricing Period. In the event that Provider is not eligible for the Gammagard Contract Price, for the applicable Pricing Period Takeda may increase Provider's price to WAC, or to another non-contracted price if one is offered for the Product. Pricing is subject to change effective on the first calendar day of the applicable Pricing Period. A waiver of the opportunity to change Provider's price for one or more Pricing Periods shall not waive Takeda's opportunity to change Provider's price for another Pricing Period for which Provider has not met the Volume Commitment.

**FLEXBUMIN PRODUCTS:****AGGREGATE FLEXBUMIN PRODUCT VOLUME COMMITMENT: 8,630 EU per quarter**

<b><u>ITEM CODE</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>FLEXBUMIN CONTRACT PRICE as of 1/1/22*</u></b>	<b><u>CALCULATED PRICE as of 1/1/22**</u></b>
FLEXBUMIN 25% 50mL 2G0201 NDC # 0944-0493-01	United States Plasma Case Lots Only (24 bags / case)	\$32.01/EU*	\$768.24
FLEXBUMIN 25% 100mL 2G0012 NDC # 0944-0493-02	United States Plasma Case Lots Only (12 bags / case)	\$32.01/EU*	\$384.12
FLEXBUMIN 5% 250mL 2G0250 NDC # 0944-0495-05	United States Plasma Case Lots Only (10 bags / case)	\$32.01/EU*	\$320.10

\*Flexbumin Contract Price is subject to increases of up to five percent (5%) per year effective on and after January 1, 2024. To be eligible for the Flexbumin Contract Price Provider must be in full compliance with the terms and conditions of this Agreement including, but not limited to, purchasing under this Agreement the Aggregate Flexbumin Product Volume Commitment.

\*\* Calculated Price shall be the then-current Contract Price multiplied by the number of units in the Item.

Within forty-five (45) days after each calendar quarter, Takeda will calculate the aggregate quantity of Flexbumin Products purchased under this Agreement by Provider during the calendar quarter and determine Provider's eligibility for the Flexbumin Contract Price for the next Pricing Period. In the event that Provider is not eligible for the Flexbumin Contract Price, for the applicable Pricing Period Takeda may increase Provider's price to WAC, or to another non-contracted price if one is offered for the Product. Pricing is subject to

change effective on the first calendar day of the applicable Pricing Period. A waiver of the opportunity to change Provider's price for one or more Pricing Periods shall not waive Takeda's opportunity to change Provider's price for another Pricing Period for which Provider has not met the Volume Commitment.

**Exhibit C**  
**Customer's Network**

**List each Healthcare Facility Name, City, State, DEA/HIN and Takeda Account Number:**

Account #	Name	Address	City	State	Zip	DEA
	IU Health Methodist	1701 N Senate Blvd	Indianapolis	IN	46206	BC5175535
	IU Health Morgan	2209 John R Wooden Drive	Martinsville	IN	46151	FI5116682
	IU Health Saxony	13000 136th Street	Fishers	IN	46037	FI2888115
	IU Health University	550 N University Boulevard	Indianapolis	IN	46202	BC5175561
	Riley Hospital for Children at IU Health	705 Riley Hospital Drive	Indianapolis	IN	46202	BC5175511
	IU Health Hem Onc - East Pharmacy	6845 Rama Drive	Indianapolis	IN	46219	BA3876438
	IU Health Hem Onc - Fishers Pharmacy	10212 Lantern Drive	Fishers	IN	46037	BW8232477

*Both parties agree the above healthcare facility listing (including any additional sheets) is complete and accurate for purposes of this Agreement. Only these healthcare facilities are eligible to purchase under this Agreement. Customer further represents and warrants that Customer has the authority to bind each facility listed to this Agreement.*

*Facilities that don't have a Takeda account number set up will need to have one created prior to ordering under this Agreement.*