

GENERAL TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS AND SERVICES BY MSD

These General Terms and Conditions apply to all MSD Purchase Orders sent to a supplier by **MERCK SHARP & DOHME OÜ**, at **A.H. TAMMSAARE TEE 47, 11316 TALLINN, ESTONIA** (hereafter referred to as "MSD"). These companies are part of the international pharmaceutical company **MERCK & CO., INC.**, Rahway, NJ, USA (hereafter referred to as "MSD"). These General Terms and Conditions are an integral part of the MSD Purchase Order. They are available by contacting the Procurement department. These General Terms and Conditions are the sole conditions applicable to the order placed by MSD. These General Terms and Conditions shall prevail over any other terms and conditions of the supplier contained in any other document whatsoever (including without limitation, the offer or the invoice of the supplier). If MSD accepts delivery or performance without an express objection, then this shall in no way be deemed as recognition of or consent to those other terms. If the supplier does not agree with the terms of the MSD Purchase Order, he must inform MSD thereof in writing within five (5) business days after receipt of the MSD Purchase Order and explain the reasons why he does not agree. MSD will either cancel the MSD Purchase Order or issue another one. If the supplier confirms his acceptance of the terms of the MSD Purchase Order in writing, if he initiates the execution of the order or if he does not communicate his refusal in writing within five (5) business days after receipt of the MSD Purchase Order, he will be considered as having accepted the conditions of the MSD Purchase Order and of these General Terms and Conditions. These General Terms and Conditions together with the MSD Purchase Order constitute the entire agreement between the parties (hereafter referred to as the "Agreement"). This Agreement can only be amended in writing by an Addendum to these General Terms and Conditions, signed by both parties. In these General Terms and Conditions the term "supplier" refers to the individual or entity supplying goods and/or services to MSD under this Agreement. Whereas Section 2 only applies to the delivery of goods, Section 3 only applies to the performance of all services in general and Sections 4, 5 and 6 only apply to the specific services specified therein, all other Sections of these General Terms and Conditions apply to all goods and/or services purchased by MSD.

1. Timeframes

The timeframes of delivery provided for in the MSD Purchase Order are binding. MSD, however, reserves the right to modify them following its needs after reasonable prior notice to the supplier. In case of delay in the delivery (except in case of *force majeure*), MSD reserves the right, at its sole discretion, to either claim for damage compensation or reject the delivery. These damages are fixed by the parties at 20% of the contractual price (incl. VAT) set forth in the MSD Purchase Order, with a minimum of 150 EUR without prejudice to MSD's entitlement to full recovery of the damage actually suffered. Should the timeframe provided for in the MSD Purchase Order not be reasonably acceptable for the supplier, the latter must inform MSD in writing and propose a new timeframe to MSD. MSD may then decide, at its sole discretion, to maintain its order with the adapted timeframe or to cancel its order at no expense.

2. Delivery of goods

- (a) A delivery order stating the number and date of the MSD Purchase Order shall be attached to the delivery.
- (b) Each packaging shall be clearly marked with a shipping label on the outside clearly showing the MSD Purchase Order number and the delivery address. Multiple cartons on the same MSD Purchase Order shall be marked as 1/2, 2/2, etc.
- (c) Each packaging shall mention its weight (gross, tare, net), in a legible and non-removable way.
- (d) Should the supplier deliver the goods at another address than the one mentioned in the MSD Purchase Order, the expenses entailed by a second transport shall be borne by the supplier.
- (e) The receipt given by the "reception desk" of MSD only concerns the number of the delivered goods.
- (f) The final receipt of the delivery is subject to the written acceptance of the person at MSD who placed the order.
- (g) In case of return of the rejected goods for incorrect delivery, the return expenses shall be borne by the supplier.

3. Standard of services

The supplier shall devote its best efforts to efficiently perform the services set forth in the MSD Purchase Order, with care, skill and diligence and in accordance with all provisions of the MSD Purchase Order, these General Terms and Conditions and the standards currently recognized by the supplier's profession or industry. At its sole discretion and at any time MSD shall be entitled to revise the services described in the MSD Purchase Order, and the parties shall, in good faith, make mutually agreeable adjustments in writing to the time of performance, fees and costs in relation to these changes. The supplier shall staff each service with professional, well-trained and knowledgeable staff whose background and experience best suit the requirements of the services. Where used in this Agreement the term "staff" shall mean those persons or entities appointed by the supplier to perform the services, irrespective of the relationship that exists between the supplier and such person or entity. The supplier, at the exclusion of MSD, shall have the sole responsibility for the supervision and monitoring of any of its staff.

4. Organization of events

(a) The event shall be held in locations appropriate for the event and for the number of participants as determined by MSD. The agency entrusted with the organization of the event shall ensure that all sites for meetings (including without limitation buildings, surrounding grounds and related facilities) comply with the applicable laws and that all required permits and other certificates have been obtained.

(b) The agency shall comply with all indications and timeframes specified in the MSD Purchase Order and shall follow MSD's instructions. Furthermore, if required, the agency shall, for the benefit of MSD, enter into agreements in its own name and for its own account with third parties for the organization of the event and shall use best efforts to negotiate reasonable commercial terms with such third parties (including without limitation price and cancellation conditions) in accordance with the applicable laws, the MSD policies communicated to the agency and with the requirements of these General Terms and Conditions. Prior to his contracting with any third party, MSD may request from the supplier a list of these third parties. In this case, MSD shall have the right to oppose to the use by the supplier of such third party. The agency shall coordinate with MSD on a regular basis. The MSD Purchase Order shall specify the detailed budget for the services to be provided for the organization of the event, including the cost related to the services of any third party contracted by the supplier for the organization of the event.

(c) All services to be performed by the agency (including without limitation any invitations, registration packets or any other communication of any type with invitees) shall require the prior written approval of MSD prior to any distribution. The agency shall at all times act in accordance with MSD's requirements and policies communicated to the agency.

5. Creation/production of promotional material and public relations services

(a) All promotional materials to be provided to MSD by the supplier shall be subject to written approval by MSD Medical/Legal prior to any use. Promotional materials to be provided by the supplier which will be distributed by MSD and which refer to MSD products or therapeutic classes in which MSD has products must comply with the applicable laws and regulations on the promotion of medicinal products. Said laws and regulations require that all labeling and promotional material be consistent with the information contained in the scientific product circular of the product concerned. These regulations also impose many other restrictions regarding labeling and promotion of medicinal products.

(b) Any public relations services to be provided to MSD by the supplier shall be carried out by the supplier subject to prior written approval by MSD Medical/Legal. Public relations materials to be provided or distributed by the supplier on behalf of MSD need to be pre-approved by MSD.

(c) For the reasons set forth under paragraphs (a) and (b), MSD may impose and the supplier shall implement any additions, deletions or modifications in order to comply with any regulations and other medical and/or legal considerations. MSD also reserves the right to make and/or request changes that enhance editorial flow and style and lend precision to expression. It is therefore possible that several drafts or rough cuts may be required to secure MSD's approval. These drafts and any work associated herewith shall not result in any additional payments due under the MSD Purchase Order. Payment for any such drafts is included as part of the price set forth in the MSD Purchase Order.

(d) The supplier represents and warrants that he has a working knowledge of applicable scientific product package circulars of MSD, of the laws and regulations, as well as of the MSD policies on promotion of medicinal products.

(e) The supplier shall secure from its staff and/or any third parties all necessary written consents, authorizations, approvals and releases for use of the promotional/public relations material by MSD worldwide in any media, including but not limited to rights for use on the Internet, now known or later developed. Except where promotional/public relations material is developed by MSD and where applicable intellectual property rights are in the public domain, the supplier shall obtain such rights with respect to trademarks, copyrights, patents, personal or contractual rights, music, drama, literary, artistic, or similar works or rights which may be necessary for the worldwide production and use by MSD of the promotional/public relations materials developed by the supplier pursuant to the MSD Purchase Order, including without limitation authors and publishers.

(f) In addition, the supplier shall secure written consents, authorizations, approvals and releases from any person who is not an employee of MSD whose voice, image or name is to be used in any part of the promotional material in view of the worldwide use of this material by MSD. If the supplier is unable to obtain such valid and binding written consent of the persons referred to above prior to final production of the materials, the supplier must notify MSD hereof on beforehand in writing. Copies of any consents, authorizations, approvals and releases provided for in this paragraph shall be provided to MSD upon request.

(g) During the period in which the supplier renders services to MSD, the supplier shall not contemporaneously render services to third parties relating to the same product category or disease area for which it is rendering services to MSD.

6. IT services and deliverables

(a) The supplier shall be responsible for the quality, technical accuracy and completeness of all reports, information, specifications, deliverables, services and any other items set forth in the MSD Purchase Order.

(b) The supplier shall employ an adequate number of qualified personnel and shall use skill, prudence, and good judgment to competently supervise the performance of the services consistent with the interests of MSD. The supplier shall be solely responsible towards MSD for and have control over all means, methods, techniques, sequences and safety procedures and for coordinating all portions of the services.

(c) The supplier represents and warrants and covenants that:

(i) all deliverables and/or services shall be delivered or performed free of any security interests, claims, liens or any other encumbrances whatsoever;

(ii) there are no rights outstanding which would diminish, encumber or impair the enjoyment or exercise of the rights granted to MSD; and

(iii) the supplier has right, title and/or interest necessary to assign, transfer, license or convey the deliverables and services.

The foregoing representations, warranties and covenants are and shall be deemed to be continuing.

(d) The supplier represents and warrants that all services and deliverables shall be free of any material defects or defects in workmanship, shall conform in all material respects to the requirements and specifications agreed to by the parties and shall be fit and sufficient for the purposes expressed by MSD in, or reasonably inferred from, the MSD Purchase Order or any other written communication from MSD.

(e) The supplier shall, at no expense to MSD, correct any failure to fulfill any representations, warranties and/or covenants expressed in this Section which may arise within a reasonable time of the performance of services (with a minimum term of 1 year). Project specific remedies may be specified in the MSD Purchase Order.

(f) The representations, warranties and covenants expressed in this Section are not sole or exclusive and are in addition to any other expressed or implied warranties.

7. Payment and invoice

MSD shall pay the supplier in consideration for the goods and/or services ordered by MSD a price as set forth in the MSD Purchase Order. Each invoice shall mention the number and date of the MSD Purchase Order. Except upon prior written acceptance by MSD, any invoice mentioning different prices than those mentioned in the MSD Purchase Order will be refused and returned for rectification. The invoices are payable within ninety (90) business days after receipt by MSD. The prices set forth in the MSD Purchase Order are the prices exclusive of VAT. MSD shall make payments only on the basis of original invoices accompanied by the adequate documentation attesting of all expenses incurred. The expenses related to the services ordered (including without limitation, reasonable travel, meal and lodging expenses) will only be reimbursed by MSD if specified in the MSD Purchase Order against submission of receipts and subject to prior written approval of MSD. In case the actual expenses incurred are lower than the expenses originally estimated and set forth in the MSD Purchase Order, the price shall be reduced accordingly.

8. Term and Termination

(a) This Agreement shall commence on the date specified in the MSD Purchase Order and shall extend for the period specified in the MSD Purchase Order, subject to the right of either party to terminate the Agreement as specified in this Section.

(b) In case either of the parties commits any breach or non-observance of any of the provisions of this Agreement (including without limitation a failure to abide by the provisions of Section 1 (timeframes), Section 9 (confidentiality) and Section 13 (ethical business practices)) and does not remedy the same within five (5) business days after written notice to this effect is given to the defaulting party, the other party may terminate this Agreement with immediate effect, without prior legal proceedings and without indemnity by giving written notice to the defaulting party. To the extent that these are useful to MSD, the services and deliverables already completed/delivered by the supplier at the time the Agreement is being terminated by MSD because of breach or non-observance of the supplier, will be charged/invoiced to MSD in as much as they exceed the compensation that can be claimed by MSD for the damage possibly suffered, the amount of which will be disclosed within reasonable notice. Invoices already issued or paid will be balanced by an appropriate "credit note".

(c) Without prejudice to paragraph (b), MSD shall have the right to terminate this Agreement (or part of it) at any time without cause and without indemnity upon notice to the supplier of ten (10) business days. In this case, MSD shall pay to the supplier:

(i) The services and deliverables ordered by MSD and completed/delivered by the supplier prior to the date of termination less any payment already made by MSD. In no event shall the total payment to be made by MSD under this paragraph exceed the price set forth in the MSD Purchase Order. If payments already made by MSD to the supplier exceed the payments due by MSD under this paragraph, the supplier shall refund the difference to MSD within ten (10) business days after termination.

(ii) The expenses reasonably incurred for the execution of the order up to the date of receipt of MSD's termination notice (provided such expenses cannot be cancelled or recovered by the supplier). Upon request of MSD, the supplier shall provide proof satisfactory to MSD that expenses incurred are not cancelable or recoverable and have been paid.

(d) Without prejudice to paragraphs (b) and (c), MSD shall have the right to terminate this Agreement at any time with immediate effect, without prior notice or indemnity, in the event of bankruptcy, voluntary liquidation, appointment of an *ad hoc* administrator, a liquidator or receiver, termination of activities, attachment or seizure proceedings or any other procedure or circumstance indicating that the financial situation of the supplier is jeopardized.

(e) Without prejudice to paragraphs (b), (c) and (d), in case the following facts cause a prejudice to MSD, MSD shall have the right to terminate this Agreement at any time with immediate effect and without indemnity upon notice to the supplier, in the event (i) 35% or more of the voting shares of the supplier or its parent, as the case may be, are acquired by a third party, or (ii) the supplier shall dissolve, transfer, sell, assign, mortgage, encumber, pledge, or otherwise dispose of all or substantially all of its assets. The supplier shall immediately disclose to MSD such change in ownership.

(f) Any notice under this Section shall be written and given by registered mail.

(g) In case of termination and/or expiration of this Agreement, MSD shall not be deemed to waive any rights or remedies it may have under these General Terms and Conditions or under applicable law.

9. Confidentiality

During the performance of supplier's obligations hereunder, the supplier and its staff may obtain, receive or have access to certain valuable materials, information, and/or data relating to the intellectual property, know-how, businesses, operations, finances and/or commercial, marketing, research and development and/or other plans and strategies of MSD or its affiliates, which MSD or its affiliates consider to be confidential and proprietary. All such materials, information and/or data, together with all copies, summaries, notes, analyses and or studies thereof or pertaining thereto, whether written or recorded in electronic or other format and on whatever media, are herein collectively referred to as "Confidential Information."

For a period of at least 10 years after the delivery of the goods/performance of the services, the supplier agrees to, and to cause each of its staff to, retain in confidence and refrain from disclosing and/or using for the benefit of the supplier, such staff or any third party any and all Confidential Information of MSD or its affiliates. These restrictions shall not apply to Confidential Information which (i) is or becomes public knowledge (through no fault of the supplier or its staff), (ii) is lawfully made available to the supplier by an independent third party (and such lawful availability can be properly demonstrated by the supplier), (iii) is already in the supplier's possession at the time of initial receipt from MSD (and such prior possession can be properly demonstrated by the supplier), (iv) is independently developed by the supplier or the supplier's staff (and such independent development can be properly demonstrated by the supplier), or (v) is required by law, regulation, rule, act, or order of any governmental authority or agency to be disclosed by the supplier; provided, however, that the supplier shall give MSD sufficient prior written notice of such proposed disclosure to permit it to seek a protective order or other similar order with respect to the Confidential Information and, thereafter, the supplier shall disclose only the minimum Confidential Information required to be disclosed in order to comply, whether or not MSD seeks or obtains any such protective or other similar order.

The supplier agrees that, without the prior written permission of MSD, the supplier will not, and the supplier will not permit any of the supplier's staff to, use Confidential Information for any purpose other than in carrying out the supplier's obligations under this Agreement. The supplier shall provide the Confidential Information received hereunder only to those staff of the supplier who are directly concerned with the performance of this Agreement and who are bound, by contract or otherwise, to maintain the confidentiality of the Confidential Information. Further, the supplier agrees to (i) advise each of its staff of the proprietary nature of the Confidential Information and the terms and conditions of this Agreement requiring that the confidentiality of such information be maintained and (ii) use all reasonable safeguards to prevent unauthorized use or disclosure by its staff. The supplier shall be responsible for any breach of this Agreement by its staff.

All Confidential Information, which the supplier or any of its staff shall obtain or to which the supplier or any staff of the supplier shall be given access pursuant to or in connection with this Agreement, shall be and remain the sole property of MSD, and the supplier shall have no right, title or interest (except as expressly provided herein) to or in such Confidential Information. Immediately upon the expiration or earlier termination of this Agreement, the supplier shall return to MSD all Confidential Information (including all copies thereof) then in the possession of the supplier or any of its staff.

10. Limitation of liability

The aggregate total liability of MSD under this Agreement is limited to, the lower of, (i) the amount of 25.000 € and (ii) the amount of the fees paid by MSD under Purchase Orders made during the last three (3) months prior to the moment the incident causing the damages has occurred. This limitation of liability applies irrespective of the applicable liability regime such as, but not limited to, contractual liability and tort liability and also in case of serious fault.

11. Independent contractor

In the execution of the MSD Purchase Order, the supplier shall at all times act as and be deemed an independent contractor and shall not be taken to be an employee, agent or partner of MSD. The supplier is not authorized to assume or

create any obligations or responsibilities, express or implied, on behalf of or in the name of MSD, except as specifically authorized by MSD.

12. Conflict of interest

The supplier undertakes to disclose to MSD without delay any and all circumstances existing at the time of issue of the MSD Purchase Order or arising at any time during the term of execution thereof and involving the supplier or any of its directors, officers, employees or members of their respective families, which might constitute a conflict of interest for the business relationship between the parties within the frame of the execution of the MSD Purchase Order. In the event of a conflict of interest, the supplier shall cease to render services and/or deliver goods to MSD if requested to do so by MSD and MSD shall be entitled to cancel the MSD Purchase Order and terminate this Agreement with immediate effect and without indemnity upon written notice to the supplier.

13. No subcontracting

Except as provided under Section 4, the supplier shall not subcontract any order without the prior written consent of MSD. In this case, the supplier shall at all times be responsible for the execution of the MSD Purchase Order or part thereof by such subcontractor.

14. No assignment

Neither party may assign to any third party, transfer or otherwise dispose of this Agreement in whole or in part or any of its rights or obligations thereunder, without prior written consent of the other party. MSD, however, may transfer or assign in whole or in part any of its rights and obligations under this Agreement to any company which is directly or indirectly controlled by MSD without the supplier's authorization. Any purported or attempted assignment in violation of this Section shall be null and void.

15. Intellectual Property Rights

(a) Nothing in this Agreement or in the business relationship between the parties shall constitute or be construed as granting the supplier any property right, license or any other right or interest in any information made available by MSD to the supplier in the course of the business relationship or in any trademarks, patents, copyrights or other intellectual property rights owned by MSD or any other company directly or indirectly controlled by MSD. The supplier recognizes the validity of the title in the information made available by MSD and the trademarks, patents, copyrights and any other intellectual property rights owned by MSD or any other company directly or indirectly controlled by MSD, whether registered or not.

(b) Unless explicitly agreed between the parties, all copyrights and other intellectual property rights as well as the property of the created works arising from the execution of the services and the documentation thereof (including but not limited to programs and data, public relations information, promotional material, preliminary sketches, layouts, copies, films, videos, masters, marketing information, medical procedure or process, marketing or business practices, procedures or methodology, for software, the technical specifications, the object code and the source code and generally any other material prepared by the supplier) are automatically transferred by the supplier to MSD from the moment these rights come into existence. The supplier represents and warrants that it has appropriate and valid contractual agreements to that purpose in place with all supplier's staff.

(c) To the extent explicitly agreed between the parties in writing and as an exception to paragraph 15(b) above, the supplier hereby grants MSD an irrevocable royalty free, worldwide transferable license to use such information, materials and rights for the duration of such right with a maximum of 99 years. The supplier represents and warrants that it has appropriate and valid contractual agreements to that purpose in place with all supplier's staff or third parties, and that such license will not infringe any intellectual property rights or trade secret of any third party. Without prejudice to Section 19, the supplier shall defend MSD and hold MSD harmless from any cost, loss, expense and court or administrative ruling arising out of or relating to any claim for actual or alleged infringements by MSD of any of the supplier's staff or third party intellectual property right or trade secret, know-how or any other related right.

16. Data Privacy

"Personal information" shall mean any information or set of information in any format that identifies, or is used by or on behalf of a party to identify, an individual. The parties shall comply with all applicable data protection and privacy laws, rules and regulations, as amended from time to time, including without limitation the EU Data Protection Directive 95/46/EC, and any successor thereto, with respect to the collection, use, storage, transfer, modification, deletion, disclosure and/or any other type of procession of any personal information under this Agreement.

To the extent that the supplier acts as a data processor, the following clause will apply:

- The supplier shall only process the data in the framework of and for the performance of the Agreement, according to the instructions from and under the authority of MSD.
- The supplier must implement appropriate technical and organizational security measures to protect the data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, and any other unauthorized processing of the data and shall implement any other measure imposed by MSD.
- The supplier shall, at the request of MSD, provide any information regarding the processing of the data by him and shall allow MSD to access and control his data processing facilities/infrastructure to verify compliance with Agreement.
- The supplier shall immediately forward to the MSD any request that it might receive from a data subject.
- The supplier shall not transfer the data outside the European Economic Area (EEA) or give access to the data to third parties residing outside the EEA without the MSD's prior written consent.
- The supplier is solely and fully liable for any damages resulting from failure to comply with the provisions of this Agreement.
- The supplier agrees to, upon simple request by MSD, defend and hold harmless MSD from and against all losses, liability, damages and expenses of any nature which may be sustained by or claimed against MSD arising out of failure from compliance by the supplier with Agreement.

17. Publicity

Each party agrees not to advertise or otherwise disclose to others the existence or the terms of this Agreement. Furthermore, each party agrees not to use or reference in any advertising, sales promotion, press release or other communication, any direct or indirect reference to the other party (for MSD this also covers any reference to any other company directly or indirectly controlled by MSD) or its products (including without limitation name, logo, trademark, trade name, picture, etc.) without the prior written consent of the other party. Any media interaction by the supplier in connection with or relating to the contractual relationship between the parties shall require the prior written consent of MSD. Where the supplier's consent is required for the use by MSD of his name, such consent shall not be unreasonably withheld.

18. Ethical business practices

(a) The supplier acknowledges that MSD corporate policy requires that MSD's business be conducted within the letter and spirit of the law. By entering into this Agreement, the supplier undertakes to conduct this business relation in a manner which is consistent with the law, fair practices and good business ethics.

(b) Specifically, each party represents and warrants that it is not an official, officer, agent or representative of any government or political party and that it shall not make any payment, either directly or indirectly, to government or political party officials, candidates for public office, or representatives of other businesses or persons acting on behalf of any of the foregoing where such payment is for the purpose of influencing decisions or actions with respect to any aspect of MSD's business. The supplier acknowledges that no employee of MSD or any other company directly or indirectly controlled by MSD shall have authority to give any direction, either in writing or orally, in violation of the terms of this and any other Sections of this Agreement.

(c) All transactions in connection with this Agreement shall be accurately reflected in the supplier's books and records.

(d) Any party's failure to abide by the provisions of this Section shall be deemed a material breach of this Agreement. Each party may, in such case, cancel the MSD Purchase Order and terminate this Agreement at its sole discretion upon written notice to the other party and without prejudice to any other remedies that may be available to the parties.

19. Indemnification

Without prejudice to other provisions of this Agreement, the supplier shall indemnify and hold MSD (and any other company directly or indirectly controlled by MSD) harmless from and against any and all loss, damage or expense (including without limitation reasonable attorneys' fees) that may be sustained or incurred as a result of:

- (i) any actual or alleged negligent or willful act or omission of the supplier or any of its employees, agents or subcontractors;
- (ii) any actual or alleged violation by the supplier or any of its employees, agents or subcontractors of any law (including without limitation, labor, social security, tax laws and laws against unfair competition);
- (iii) any actual or alleged failure of the supplier to obtain required consents, authorizations, approvals or releases for use of the promotional materials or any infringement by any promotional material of any law (including without limitation labor, social security, tax laws and laws against unfair competition), patent right, copyright, trade secret right or other proprietary rights of any third party);
- (iv) any failure of the supplier to perform any of its obligations under this Agreement.

20. Insurance

The supplier represents and warrants to have subscribed an appropriate insurance policy to cover his liabilities under this Agreement (including, where supplier acts as a data processor, Cyber Liability coverage with comprehensive third party network/cyber liability) and will provide MSD with a copy of the certificate of insurance upon request. The supplier shall notify MSD in writing of any changes in the insurance coverage (including without limitation cancellation, non-renewal or material modification of the policy).

21. Governing law, jurisdiction and place of delivery/performance

- (a) This Agreement and any other agreements arising therefrom shall be governed by the laws of Estonia with the exclusion of the Vienna Sales Convention.
- (b) The parties shall submit any dispute arising out of or relating to this Agreement, including bills or cheques, to the competent Courts of Tallinn, Estonia.
- (c) Unless otherwise agreed, the place of delivery of goods or performance of services shall be or shall be deemed to be Tallinn. The place of performance of payments to MSD shall be Tallinn.

22. Counterfeit, Diversion or Tampering

- (a) Notifications or concerns of suspected Counterfeit, Diversion or Tampering (“CDT”) events are to be reported by email to cdt.emea@MSD.com within one (1) business day. MSD’s Counterfeiting Director and Regional Security Director will make the decision to open a suspect CDT investigation and MSD’s Global Security Group and/or local legal representative will perform any necessary government agency notifications for confirmed CDT events, in collaboration with supplier.
- (b) Supplier should also notify MSD of events involving major product losses or product thefts via email to cdt.emea@MSD.com and utilize MSD’s Global Security Group as a resource for investigative and intelligence issues.

23. Miscellaneous

- (a) All specifications, documents, logos, materials or samples handed over or communicated by MSD to the supplier in the frame of the MSD Purchase Order remain the property of MSD. The supplier is not entitled to use these for any other purpose than in the frame of the MSD Purchase Order or to disclose their content to a third party.
- (b) If any provision of this Agreement becomes invalid, ineffective or unenforceable, the remaining provisions of this Agreement shall be valid to the extent reasonably possible. The invalid, ineffective or unenforceable provision shall be replaced by a valid, effective and enforceable provision which economically best meets the intention of the parties. The same shall apply in case of an omission.

(c) Waiver by either party of any breach of the provisions of this Agreement shall not be construed as a waiver of any succeeding breach of the same or of any other provision thereof.

(d) The supplier agrees to maintain accurate and complete records of all contracts, papers, correspondence, copybooks, accounts, invoices, and/or other information in the supplier's possession relating to this Agreement (collectively, "Records"). The Records shall be maintained in accordance with recognized commercial accounting practices and retained during the term of this Agreement and thereafter for the legally required period with a minimum of 3 years. The supplier agrees to permit MSD or any person or entity designated by MSD to examine and audit the Records at no charge to MSD, with prior written notification and during normal business hours.

24. Business Partner Code of Conduct

MSD endeavors to hold itself and its supplier to the highest ethical and compliance standards, including basic human rights, encouraging fair and equal treatment for all persons, the provision of safe and healthy working conditions, respect for the environment, the adoption of appropriate management systems and the conduct of business in an ethical manner. Without limiting any of supplier's other obligations hereunder, and without conflicting with or limiting any of the warranties, obligations or other provisions expressly set forth elsewhere in this Agreement, including without limitation its obligations hereof, supplier agrees that it will abide by the letter and spirit of MSD's Business Partner Code of Conduct (the "Code"), as in effect from time to time, a copy of which is available at <http://www.msd.com/about/how-we-operate/code-of-conduct/home.html>

Supplier agrees that it will provide all documentation reasonably requested by MSD to demonstrate compliance with the Code. In the event of a conflict between the obligations and the Code, on the one hand, and any other provision in this Agreement, on the other hand, such other provision of this Agreement shall control (but only to the extent of the conflict).

MSD reserves the right, in its sole discretion, to audit supplier's operations, books and records to ensure compliance with the Code. MSD will provide reasonable advance notice of such an audit, and may conduct this audit on its own or using a third-party auditor of its choosing. Supplier shall acknowledge receipt of MSD's notice as promptly as practicable after receipt of such notice and will confirm the date on which the audit will occur within 14 days after receipt of such notice. MSD or its third-party auditor may interview supplier's employees as part of or in connection with the audit. This audit right shall be in addition to any other audit rights granted in this AGREEMENT.

In the event an audit identifies a non-conformance by supplier with the Code, supplier will promptly take corrective action to remedy the non-conformance. MSD reserves the right to approve all corrective actions. Corrective actions shall be implemented by supplier at supplier's expense. MSD will endeavor, whenever practicable, to work with supplier to remedy the issue and put in place a corrective action plan.

In the event supplier refuses to allow an audit, or fails or refuses to take corrective action, then in addition to any other remedy available to it under this Agreement, at law or in equity, MSD reserves the right to terminate this AGREEMENT in the event supplier fails to cure such refusal or failure within 90 days after written notice from MSD.

25. Supplier Expectations:

Without limiting any of SUPPLIER's other obligations hereunder and without limiting any of the express warranties or obligations agreed to elsewhere in this Agreement, including without limitation its obligations hereof, MSD expects that SUPPLIER will abide by the letter and spirit of MSD's Supplier Performance Expectations, as in effect from time to time, a copy of which is available at <http://www.msd.com/about/how-we-operate/code-of-conduct/home.html>. In the event of a conflict between the obligations in this SECTION 25 and MSD's Supplier Performance Expectations, on the one hand, and any other provision in this Agreement, on the other hand, such other provision of this Agreement shall control (but only to the extent of the conflict).

26. Quality

(a) Data Integrity. Any documentation or data relevant to activities performed, including without limitation any GMP documentation, must be attributable, original, accurate, legible, complete, controlled, retrievable, and safe from intentional or unintentional manipulation or loss. These items are required throughout the retention period of such data / documentation”
