



PATHEON SOFTGELS B.V. ("Patheon")
Terms and Conditions of Purchase For all Goods and Services

Subject to the provisions of the Contract, Seller shall sell and Patheon shall buy the Goods and/or Services described in the Purchase Order attached to or accompanying these terms and conditions.

1. Interpretation

1.1 The definitions and rules of interpretation in this clause apply in these terms and conditions.

Contract: the Purchase Order and the Seller's acceptance of it in accordance with clause 3.3 of these terms and conditions. **Purchase Order:** Patheon's written instruction to supply the goods or services described in the instruction (respectively the "Goods or Services"), incorporating the terms of these terms and conditions and any other document referred to by Patheon in the Purchase Order.

Seller: the person, firm or company who accepts the Purchase Order in accordance with clause 3.3.

2. Acceptance

2.1 Seller by signing these terms and conditions or by supply of any of the Goods or Services accepts all terms and conditions detailed herein and in any appendices attached hereto to the exclusion of all others. The Contract does not constitute an acceptance by Patheon of an offer to sell by Seller. Patheon does not accept any terms and conditions of sale of Seller including, without limitation, those attached to its acknowledgments, acceptance documents, invoices (whether provided by Patheon before or after these terms and conditions) or elsewhere or implied by law, trade custom, practice or course of dealing.

2.2 No addition to, variation of, exclusion or attempted exclusion of the Purchase Order or these terms and conditions or any of them shall be binding on Patheon unless in writing and signed by a duly authorised representative of Patheon. Any changes to the printed terms and conditions hereof will not be accepted unless expressly initialled by both Patheon and Seller.

2.3 Neither payment for Goods and Services nor waiver by Patheon of any of the Seller's breach of its obligations including any term, condition or provision herein shall constitute acceptance by Patheon.

3. Effect of Purchase Order

3.1 Patheon shall only be bound by an order if it is issued on Patheon's standard Purchase Order form and signed by a duly authorised representative of Patheon.

3.2 The Purchase Order constitutes an offer by Patheon to purchase the Goods or Services subject to these terms and conditions. Accordingly, any acceptance of the Purchase Order by the Seller shall establish a contract for the sale and purchase of the Goods and Services on these terms and conditions. Any counter-offer made by the Seller to supply the Goods or Services on other conditions shall only be validly accepted by Patheon if such acceptance is in writing and signed by a duly authorised representative of Patheon.

3.3 The execution and return of the acknowledgement copy of the Purchase Order form by the Seller, or the Seller's execution, commencement of work or commencement of delivery pursuant to the Purchase Order constitutes acceptance of the Purchase Order on these terms and conditions by the Seller.

4. Delivery

4.1 Unless otherwise agreed in writing in advance, Seller shall not make material commitments or production arrangements in excess of the amount or in advance of the time necessary to meet Patheon's delivery schedule. Goods shipped to Patheon in advance of schedule may be returned by Patheon, at its sole option, to Seller at Seller's expense.

4.2 If there is a delay in delivery of Goods or supply of Services, Seller shall be liable for all reasonable costs resulting from such delay. If as a result of Seller's delay Patheon requires shipment of any of the Goods by a method of transportation other than the method originally specified in the Purchase Order, Seller shall transport the Goods using the method of transportation specified by Patheon or, where Patheon is responsible for transporting the Goods, pay Patheon the amount, if any, by which the cost of such transportation exceeds the cost of the method of transportation originally specified.

4.3 All Goods, materials and workmanship shall be subject to inspection and testing by Patheon at all reasonable times whether on Patheon's premises or that of Seller and both before and after delivery. Prior to the visit by Patheon's inspector, Seller shall, where requested, conduct its own inspection. Seller may be required to demonstrate, at Seller's expense and to Patheon's inspector's satisfaction that Seller has complied with the requirements of the Purchase Order. Patheon has the right to have its expeditor or inspector obtain from the Seller information concerning the status of Seller's material orders, subcontracts and manufacturing progress at intervals deemed necessary by Patheon. If the Goods are to be incorporated into an operating facility, Patheon's inspection and testing of the Goods may be made under operating conditions after the Goods have been installed.

- 4.4 Unless Patheon is notified in writing and agrees in writing to a substitution prior to shipment, Seller shall supply Goods exactly as specified by Patheon in its Purchase Order. Any terms to the contrary in any Applicable Law shall not apply to the Contract. Patheon shall have the right to return all off-specification Goods at Seller's expense.
- 4.5 Unless otherwise agreed in writing, items which form the subject of the Purchase Order must be delivered in a single consignment. Patheon shall have the right, without prior notice, to return part-deliveries which deviate from the delivery schedule set out in the Purchase Order, at the expense and risk of the Seller.
- 5. Risk And Property**
- 5.1 The Goods shall be at the risk of the Seller until delivery to Patheon at the place of delivery specified in the Purchase Order, notwithstanding any agreement to any Incoterm. The Seller shall off-load the Goods at its own risk as directed by Patheon.
- 5.2 Ownership of the Goods shall pass to Patheon on completion of delivery (including off-loading) in accordance with the Purchase Order, except that if the Goods are paid for before delivery ownership shall pass to Patheon once payment has been made. The passing of ownership in the Goods is without prejudice to any right of rejection to which Patheon may be entitled under the Contract or otherwise. All equipment or material supplied by Patheon to Seller hereunder shall be and remain the property of Patheon and shall be plainly marked "owned by Patheon" by Seller, and Seller shall ensure that such equipment is maintained in good condition, and will be insured by Seller against loss, theft or damage while in Seller's custody, care and control and Seller will ensure that they remain free of all liens, interests, charges and encumbrances. Upon completion of the Contract, Seller will dispose of the remaining materials and equipment at Patheon's discretion.
- 6. Freight Charges**
- 6.1 All freight charges from Seller to Patheon shall be payable by Seller unless agreed in writing. When freight or express charges ("Charges") are payable by Patheon, the Charges shall be itemised and described in the invoice and, if requested by Patheon, the invoice shall be accompanied by receipted freight or express bill bearing Patheon's Purchase Order number. Charges shall only be charged to Patheon when pre-authorised by Patheon; otherwise, Patheon may, at its option, refuse to pay these Charges and, if Patheon has already paid the Charges, the Seller shall refund those monies together with any interest.
- 7. Tax**
- 7.1 Prices are exclusive of amounts in respect of VAT unless otherwise indicated. Patheon shall, on receipt of a valid VAT invoice from the Seller, pay to the Seller such additional amounts in respect of VAT as are chargeable on the Goods or Services. References in these terms to "VAT" include any similar replacement or additional tax.
- 8. Payment/Invoices**
- 8.1 Prices are to be in Euros unless otherwise indicated on the Purchase Order and exactly as quoted or acknowledged at the date of the Purchase Order.
- 8.2 Prices on invoices must match exactly and in all respects those stated in the Purchase Order.
- 8.3 Patheon shall pay to Seller the total amount of each invoice on or before 45 days after receipt of the invoice, unless otherwise agreed, providing that delivery of the part of the Goods or Services to which the invoice relates has taken place to Patheon's satisfaction. If an invoice is held or returned for correction, the time for payment of any sums which Patheon disputes shall run from the date the corrected invoice is received by Patheon.
- 8.4 Unless otherwise agreed to or directed by Patheon, Seller agrees to render a separate invoice for each Purchase Order, and (where partial shipments are made) each partial shipment. Seller shall forward all invoices and bills of lading, indicating clearly any cash discount terms for prompt payment. Discounts, if applicable, shall be calculated from the date the correct invoice is received by Patheon. The original bill of lading shall accompany the shipment.
- 9. Identification**
- 9.1 Seller shall furnish complete shipping information (the "Shipping List") including item number, quantity, unit of measure and identification number, Purchase Order number, and include the Shipping List with each shipment. Seller shall also show the Purchase Order number on each package, bill of lading, invoice or equivalent electronic transaction and all correspondence. Each package must show gross, tare and net weights and/or quantity together with any other information specified by Patheon in the Purchase Order.
- 9.2 Further identification or marking of Goods supplied under the Purchase Order shall be as specified on the Purchase Order, or in accordance with the applicable drawing or specification.
- 9.3 If, following inspection, Patheon is unable to match any Goods with the Purchase Order because they have been improperly identified or labelled by the Seller, they may be returned for correction at Seller's expense as Patheon, in its sole discretion, may decide.
- 10. Import and Export of Goods and Services**
- 10.1 Seller shall be responsible for complying with all Applicable Laws in relation to the provision, import and export of Goods and / or Services under the Contract and shall, at its own cost, obtain all such import or export licences and other consents in relation to the

Goods and / or Services as are required from time to time and, if required by Patheon, Seller shall make those licences and consents available to Patheon prior to shipment of the Goods or performance of the Services.

- 10.2 Seller agrees to provide all information necessary for Patheon to comply with all Applicable Laws and reporting obligations in the country (ies) of destination. In addition to the country of origin of Goods, Seller shall supply all necessary Customs documentation and/or electronic transaction records to allow Patheon to meet its customs related obligations and to obtain any refund benefits where applicable.
Seller agrees that in the event of import or export of the Goods, Seller will be liable for any foreign exchange risk resulting therefrom.

THE PROVISIONS OF CLAUSE 15 SHALL APPLY IN RESPECT OF SELLER'S FAILURE TO COMPLY WITH THIS CLAUSE 10.

11. Changes

- 11.1 Patheon may, by written instructions to Seller, make changes in the Services to be performed or the Goods to be provided in any one or more of the following respects: (a) drawings, designs or specifications; (b) the nature or extent of Services to be provided; (c) requests for additional Services or overtime; (d) methods of shipment or packing; (e) time and/or place of delivery; and (f) the quantity or type of Goods ordered.
- 11.2 Following any change directed by Patheon pursuant to clause 11.1, Seller shall give sufficient prior written notice to Patheon of any change(s) in materials, manufacturing processes, manufacturing location, or test methods for mutual assessment of the probable effect on Patheon's process or product performance. If such changes cause an increase or decrease in the cost or the time required to perform, or have any adverse affect (including any delay or increase in cost) on Patheon's activities, work in progress, or processes, an adjustment shall be made upon mutual agreement of Patheon and Seller before the change takes effect, and the Purchase Order shall then be modified in writing accordingly. Any claim of increased cost or time hereunder must be asserted by Seller in writing within fifteen (15) days from the date that the change is ordered.
- 11.3 Any proposed changes to the Contract shall not be binding on Patheon until confirmed in writing by authorised Patheon purchasing or sourcing personnel.

12. Assignment and Subcontracting

- 12.1 The Seller shall not, without the prior written consent of Patheon, assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

13. Intellectual Property

- 13.1 Seller represents and warrants that Goods or Services do not infringe any valid patent, trademark, copyright or other intellectual property right.
- 13.2 THE PROVISIONS OF CLAUSE 15 SHALL APPLY IN RESPECT OF ANY CLAIM OF INFRINGEMENT AGAINST PATHEON ARISING OUT OF THE POSSESSION, PRODUCTION, USE AND SALE OF GOODS OR PROVISION OF SERVICES SOLD HEREUNDER.**
- 13.3 Notwithstanding the above, Seller does not warrant against infringement due to: (i) the use of the Goods in combination with other products or materials or in the operation of any process; or (ii) the compliance by Seller with any specifications provided to Seller by Patheon where such infringement was unavoidable.
- 13.4 If the Goods or Services are claimed to infringe any patent, trademark, copyright or other intellectual property right of a third party, Seller shall at its expense (and in addition to providing the indemnity set out in clause 15.1) attempt to procure for Patheon the right to purchase, use and sell the Goods and for Seller to provide the Services or in the alternative either: (i) modify the Goods or Services to render them non-infringing; or (ii) replace the Goods or re-do the Services with non-infringing Goods or Services, provided that the Goods or Services that have been modified or replaced shall conform in all material respects to the Purchase Order.
- 13.5 Names, trademarks and all other intellectual property of Patheon shall remain the sole and exclusive property of Patheon and, except as is necessary to enable it to carry out its obligations under the Contract, shall not be used by Seller for any purpose whatsoever unless expressly authorized in writing by Patheon.

14. Warranties/Guarantees/Conditions

- 14.1 Any warranty given by the Seller under the Contract shall take effect as a condition.
- 14.2 Seller represents and warrants that: (a) the Goods sold are free and clear of all liens, interests, charges and encumbrances; and (b) Patheon shall acquire good and marketable title to same.
- 14.3 Seller represents and warrants that all Goods and Services supplied shall be of satisfactory quality, free from all defects in design, workmanship and material, that they shall conform to the description and specifications given to them and that they shall be fit for the particular purpose specified in the Purchase Order for the period set out in Seller's warranty, the period set out in the Purchase Order or a period of twenty-four (24) months from the date upon which the Goods and Services specified are used in Patheon's manufacturing process or put into operation, whichever period is longer. Seller shall ensure that materials conform to specifications and shall ensure consistent uniformity and minimal fluctuations within specification ranges. Seller shall, at its own expense, promptly remove, replace and install any Goods which do not conform to Patheon's specification, are incorrectly fitted, or may prove to be defective in workmanship, design or material or according to any of Patheon's specifications and standards which have been notified to Seller during the said warranty period.

- 14.4 If any of the Services or Goods are found at any time to be defective in workmanship, design or material, or otherwise not in conformity with Patheon's specifications or other requirements, Patheon, in addition to any other rights which it may have under contract, warranties, or otherwise, shall have the right: (i) to reject and return such Goods at Seller's expense; (ii) with respect to Services, to withhold payment until the work is performed in accordance with these terms; and (iii) to a refund for any Goods rejected and returned to Seller.
- 14.5 Any attempt by Seller to limit, disclaim, or restrict any such warranties or any remedies of Patheon by acknowledgment or otherwise, in accepting or performing the Contract, shall be null, void and ineffective without Patheon's written consent and shall not be binding or applicable to the Contract.

THE PROVISIONS OF CLAUSE 15 SHALL APPLY IN RESPECT OF SELLER'S FAILURE TO COMPLY WITH THIS CLAUSE 14.

15. Indemnification

- 15.1 EXCEPT TO THE EXTENT THE LOSSES ARE DUE TO PATHEON'S GROSS NEGLIGENCE OR WILFUL MISCONDUCT, SELLER SHALL DEFEND, INDEMNIFY (NOTWITHSTANDING ANY POSSIBLE DISCLAIMER, EXCLUSION, LIMITATION, OR RESTRICTION OF LIABILITY TO THE CONTRARY, WHICH DISCLAIMERS SELLER AGREES DO NOT APPLY TO THE CONTRACT) AND HOLD PATHEON, IT'S OFFICERS, DIRECTORS, AFFILIATES, REPRESENTATIVES, AGENTS AND EMPLOYEES HARMLESS FROM ANY AND ALL DAMAGES, CHARGES, CLAIMS, ACTIONS, LOSSES, EXPENSES, COSTS (INCLUDING, BUT NOT LIMITED TO, LEGAL FEES) INCURRED BY PATHEON ITSELF OR MADE BY ANY PARTY OR PERSON AGAINST PATHEON (AND WHETHER ARISING OUT OF PERSONAL INJURIES, ILLNESS OR DEATH, OR INJURY TO OR DESTRUCTION OF PROPERTY (INCLUDING LOSS OF USE) OR OTHERWISE) RESULTING FROM, OR IN ANY WAY CONNECTED WITH: (A) SELLER'S PERFORMANCE OR NON-PERFORMANCE OF ITS OBLIGATIONS UNDER THE CONTRACT; OR (B) THE PERFORMANCE OR NON PERFORMANCE OF ANY SUB-CONTRACTOR OR AGENT OF SELLER; OR (C) THE ACTS OR OMISSIONS OF ANYONE FOR WHOSE ACTS OR OMISSIONS SELLER MAY AT LAW BE LIABLE; OR (D) FROM ANY GOODS OR SERVICES PROVIDED UNDER THE CONTRACT.

16. No Consequential Losses

- 16.1 SAVE IN RESPECT OF SELLER'S OBLIGATION UNDER CLAUSE 15 TO INDEMNIFY PATHEON FOR CLAIMS MADE AGAINST PATHEON BY ANY THIRD PARTY, UNDER NO OTHER CIRCUMSTANCES WHATSOEVER SHALL EITHER PARTY BE LIABLE TO THE OTHER IN CONTRACT, TORT, NEGLIGENCE, BREACH OF STATUTORY DUTY OR OTHERWISE FOR ANY DIRECT OR INDIRECT LOSS OF PROFITS, OF PRODUCTION, OF ANTICIPATED SAVINGS, OF BUSINESS OR GOODWILL OR FOR ANY LIABILITIES, DAMAGES, COSTS OR EXPENSES OF ANY KIND INCURRED BY THE OTHER PARTY WHICH ARE OF AN INDIRECT OR CONSEQUENTIAL NATURE, REGARDLESS OF ANY NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

- 16.2 NOTHING IN THE CONTRACT SHALL LIMIT EITHER PARTY'S LIABILITY FOR DEATH, PERSONAL INJURY OR FRAUDULENT MISREPRESENTATION.

17. Termination

- 17.1 Patheon may terminate the Contract at any time at its sole discretion without necessity or justification or cause at any time upon written, facsimile or electronic notice to Seller subject to the following: (i) if the Contract covers Goods which are standard stock merchandise or Services, Patheon shall have no obligation to pay cancellation charges or other compensation except to make payment for Services performed or Goods shipped prior to termination that have not yet been paid for; or (ii) if the Contract covers Goods fabricated or constructed to Patheon's specifications or Goods especially prepared by Seller for Patheon, Patheon shall pay and Seller shall accept as full compensation Seller's reasonable direct out-of-pocket costs to the date work is stopped as approved by Patheon; provided, however the total amount to be paid to Seller upon termination, plus payments made previously by Patheon to Seller, shall not exceed the pro rata portion of the total aggregate purchase price specified in the Purchase Order. Seller shall not penalise Patheon, financially or otherwise, for such termination of the Contract.
- 17.2 Upon termination by Patheon, Seller shall safely hold all completed or uncompleted Goods and other property of Patheon for a reasonable time until Patheon instructs Seller to ship or otherwise dispose of such. Patheon may take possession of all the above-mentioned Goods on Seller's site and/or Patheon's site and finish the work in a manner suitable to Patheon. Seller hereby gives Patheon permission to enter its premises for this purpose.
- 17.3 Without prejudice to any other rights or remedies to which Patheon may be entitled, Patheon may terminate the Contract without liability to the Seller if:
- (a) The ability of Patheon to accept delivery of the Goods or Services is delayed, hindered or prevented by circumstances beyond its reasonable control in accordance with clause 22 of the contract; or
 - (b) The Seller commits a material breach of any term of these terms and conditions or the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so; or
 - (c) the Seller becomes insolvent, is generally unable to pay, or fails to pay, its debts as they become due, files, or has filed against it, a petition for voluntary or involuntary bankruptcy or pursuant to any other insolvency Law, makes or seeks to make a general assignment for the benefit of its creditors, or applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its property or business.

18. Set-Off

- 18.1 Patheon shall have the right to Set-Off any amount owed by Seller to Patheon against any amount payable at any time by Patheon in connection with the Contract and any other amounts outstanding and otherwise payable by Patheon to Seller whether under contract or otherwise.

19. Compliance with Applicable Laws

- 19.1 Seller warrants that it shall obtain any necessary or required approvals, permits or licences that it requires to perform its obligations under the Contract and that all Goods and Services provided or performed on or off Patheon's premises by Seller pursuant to the Contract shall be in full and strict compliance with all applicable international, European, national, provincial, state and local laws, codes, ordinances, orders, rules and regulations ("Applicable Laws"). Services carried out on Patheon's premises shall be in accordance with all of Patheon's rules and policies. Except for permits, approvals and licenses that by law only Patheon can obtain,

Seller shall pay for all permits, approvals and licenses required in connection with the Contract and furnish them to Patheon prior to the commencement of work. Seller hereby undertakes to ensure that all and any employees, subcontractors or individuals within its control that enter Patheon's premises in order to fulfil obligations under the Contract have all the necessary qualifications and permits required to carry out such work in accordance with all relevant Applicable Laws and will furnish the same to Patheon prior to allowing any such individual to perform any task under the Contract.

THE PROVISIONS OF CLAUSE 15 SHALL APPLY IN RESPECT SELLER'S FAILURE TO COMPLY WITH THIS CLAUSE 19.

20. Chemical Substance Identification

20.1 By acceptance of the terms of the Contract, Seller certifies that any chemical substances furnished pursuant to the Purchase Order have been properly labelled and that proper information on the substances, such as material data safety sheets, has been provided to Patheon - including those to be provided pursuant to all Applicable Laws.

21. Anti Bribery

21.1 The Seller shall:

- (a) comply with all applicable laws, regulations and sanctions relating to anti-bribery and anti-corruption including but not limited to the UK Bribery Act 2010 or the US Foreign Corrupt Practices Act and procure that its suppliers, sub-contractors and agents shall do the same;
- (b) promptly report to Patheon any request or demand for any undue financial or other advantage of any kind received by the Seller or any sub-contractor or agent of the Seller.

22. Force Majeure

22.1 Patheon may defer the date of delivery or payment, or cancel the Contract or reduce the quantity of Goods ordered, if it is prevented from or delayed in carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including without limitation strikes, lock-outs or other industrial disputes (whether involving the workforce of Patheon or any other party), failure of a utility service or transport or telecommunication network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors.

23. General

23.1 Should any provision of the terms and conditions be found invalid or unenforceable by law, it shall cease to operate and be considered severed from the Contract. All remaining provisions shall continue to be valid and binding upon the parties.

23.2 The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) will be governed by and construed in accordance with the laws of England and Wales applicable therein. Patheon and the Seller irrevocably agree that the courts of England will have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).

23.3 The Contract shall enure to the benefit of, and be binding on the parties and their respective successors and permitted assigns.

23.4 The waiver by Patheon of any term, condition or provision herein shall not be construed as a waiver of any other term, condition or provision nor shall any such waiver operate as a waiver of a subsequent breach of the same term, condition or provision, nor shall it be deemed a waiver of any provision of any subsequent agreement.

23.5 Nothing in the Contract shall confer or be construed as conferring on any third party any benefit or the right to enforce any express or implied term of the Contract.

23.6 The Contract contains the entire understanding between the parties concerning the Contract. It shall supersede all prior written or oral agreements with respect to the same subject matter between the parties, and shall not be modified except by instrument in writing signed by both parties.

23.7 Seller shall, at the request and cost of Patheon, use all reasonable endeavours to do or procure the doing of all such further acts, and execute or procure the execution (as a deed or otherwise) of all such documents, as may from time to time be necessary to give full effect to the Contract and to vest in Patheon the full benefit of the assets, rights and benefits to be transferred to Patheon under the Contract.