



*The European Union (hereinafter referred to as "the EU"), represented by the European Commission, represented for the purpose of signing this Agreement by Xavier Prats Monne, Director-General for Health and Food Safety*

*on the one part, and*

*The Ministry of Health, acting on behalf of Romania, (hereinafter referred to as the "National Authority"), represented for the purpose of signing this Agreement by Dan Octavian Alexandrescu, Secretary of State at Ministry of Health, duly entitled to sign*

*on the other part,*

Whereas,

With Directive 2001/83/EC the European legislator sought to introduce a Community code relating to medicinal products for human use;

In 2011 the above mentioned Directive was amended by Directive 2011/62/EU, which introduced measures to contrast the illegal sale of medicinal products to the public via the Internet;

Article 85c(3) of Directive 2001/83/EC now provides that a common logo recognisable throughout the Union should be established, which will enable the identification of the Member State where the person offering medicinal products for sale at a distance to the public by means of information society services is established;

Among the candidate logos proposed to the concerned national authorities, the European Commission has sought and obtained trademark protection for the adopted logo in the name and on behalf of the European Union;

The registered mark is now included in annex to the Commission Implementing Regulation (EU) No 699/2014, and;

National authorities, representing EU Member States and EFTA States, agree to adopt the registered mark as common logo for the purposes and within the scope established in Article 85c(3) of Directive 2001/83/EC;

NOW, for and in consideration of the premises and other good in-value re-considerations, the receipt and sufficiency of which are hereby acknowledged, it is hereto agreed as follows:

## 1. DEFINITIONS

.1. The under mentioned terms printed with an initial capital letter shall have herein the following meanings unless the context otherwise requires:

"*Agreement*" shall mean this agreement, including all its Annexes;

"*Composite Mark*" shall mean the Trademark as combined with additional distinctive word/graphic elements whose requirements and format are specified in annex to the Commission Implementing Regulation (EU) No 699/2014 and in Annexes A and B to this Agreement;

"*Intellectual Property Rights*" shall include all intellectual property rights, in particular - but not limited to - trademarks and designs, know-how, copyright and neighbouring rights;

"*National Authority*" shall include - for all purposes hereof - any legal person which, directly or indirectly, through one or more intermediaries, is controlled by or is under common control with the National Authority. For all purposes hereof, control means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of another legal person, or the power to veto major policy decision of another legal person, whether through the ownership of voting securities, by contract or otherwise;

"*Parties*" shall mean both parties in this Agreement, namely the EU and the National Authority while "*Party*" shall refer to either of the Parties as the context provides;

"*Field of Use*" shall be defined by the aim and purpose of Directive 2001/83/EC and its amendments or by any subsequent EU legislative provision adopted in replacement thereof;

"*Enforcing Date*" shall mean the date of the last signature of this Agreement by either Party;

"*Term*" shall mean a period beginning on the Enforcing Date and ending with the abrogation of the Union's provision requiring the adoption of a common logo within the Field of Use;

"*Territory*" shall mean the territory on which the State represented by the National Authority exerts its sovereign powers;

"*Trademark*" shall mean the registered device mark (reg. nr. 1162865) as shown in annex to the Commission Implementing Regulation (EU) No 699/2014.

## 2. LICENCE OF RIGHTS

.1. Subject to the terms and conditions set forth in this Agreement, the EU grants to the National Authority a royalty-free, non-transferable sole licence to use the Composite Mark in conformity with the Field of Use and for the Territory. The licence granted to the National Authority include the rights to:

- a. use, print and reproduce and store;
- b. publish, distribute copies thereof, display, broadcast, transmit and/or communicate to the public by telecommunication, press information services, messages and wire service, electronic and non-electronic publications or any other media now known or later developed;

.2. The rights granted herein shall not extend to the standalone Trademark. Unless otherwise provided in writing between the Parties, no further rights of use are granted to the National Authority.

.3. Nothing in this Agreement, whether express or implied, shall be deemed to be a licence, a sub-licence or other grant of a right to the National Authority to use the Intellectual Property Rights of a third party or any rights under any third party licence that cannot be licensed, sublicensed or granted without the consent, approval or agreement of another party, unless such consent, approval or agreement is first obtained.

## 3. LICENCE LIMITATIONS AND OBLIGATIONS

.1. The National Authority shall neither itself nor allow any third party to:

- a. rent, lease, assign or transfer any kind of rights regarding the Trademark, and the Composite Mark to third parties - any such stipulation in violation hereof being null and void - unless otherwise provided in this Agreement;
- b. modify the appearance, create, develop and/or use derivations or variations based on any part of, the Trademark and/or Composite Mark other than proportionally increase or decrease in size the Composite Mark in compliance with the format specified in the Annexes herein and in accordance with the Commission Implementing Regulation (EU) No 699/2014 or later EU legislative provision adopted in replacement thereof;
- c. develop or acquire any trademark rights associated with European Commission's institutional logo, the European emblem, the Composite Mark and any derivation thereof including, but not limited to, any national, community or international registration of trademarks, trade dress, trade names, service marks, symbols, slogans, emblems, logos, designs or incorporating the Composite Mark or any part thereof;

.2. Following the Enforcing Date, the EU shall forthwith deliver to the National Authority a high-resolution digital copy of the Trademark. The EU may also share an electronic toolkit containing further elements of the Composite Mark.

.3. The National Authority shall use its best effort to protect, and require protection of, the integrity of the Composite Mark. In particular, the National Authority shall neither itself nor allow any third party to:

- a. combine the Composite Mark or any part thereof with any other object which might deceive third parties as to the meaning and form of the Composite Mark;
- b. use the Composite Mark in any manner that expresses or might imply the EU affiliation, sponsorship, endorsement, certification, or approval, for activities falling outside of the Field of Use.

.4. Nothing in this Agreement should be interpreted as relieving the National Authority from any further obligations under applicable legislative provisions, and in particular from those foreseen in Article 85c paragraph 4, letter b) in Directive 2001/83/EC, as amended by Directive 2011/62/EU.

## 4. OWNERSHIP AND RESERVED RIGHTS OF THE EU

.1. The National Authority expressly recognises and acknowledges that the use of the Composite Mark shall not transfer upon the National Authority any Intellectual Property Rights or other ownership right in the Trademark. The National Authority agrees that no provision in this Agreement - whether express or implied - shall be deemed to affect the ownership and interest of the EU in the Trademark which shall remain unaltered.

.2. The EU shall reserve the exercise of the rights provided in Article 2 for the performance of its statutory objectives and in particular - but not limited to - for coordination, promotion and awareness-raising activities.

.3. The EU shall have the right to object, by motivated written notice to the National Authority, any use of the Trademark and the Composite Mark in combination with activities which it considers being inappropriate or harmful to the effective implementation of Directive 2001/83/EC, its amendments, or any subsequent EU legislative provision adopted in replacement thereof. In such case the National Authority undertakes to forthwith adopt appropriate measures to remove the cause underlying the objection.

#### 5. SUBLICENSING

- .1. The National Authority may sublicense the performance of any of the rights listed in Article 2 to third parties. However, any sublicensing of the rights granted to the National Authority under this Agreement, shall not operate to release, limit, impair or suspend any of the obligations of the National Authority under this Agreement and/or under the terms of Directive 2001/83/EC.
- .2. Upon request from the EU, the National Authority undertakes to provide the EU with the names of any third party to whom the National Authority sublicensed the performance of any right under this Agreement.

#### 6. ENFORCEMENT OF RIGHTS

- .1. The Parties shall in good faith cooperate to prevent and/or act against infringements of Intellectual Property Rights in the Trademark. In the event a Party becomes aware of any infringement, misuse, or other violation concerning any of the rights in the Composite Mark, it shall forthwith notify, in written, the other Party.
- .2. The Parties agree that the National Authority shall be herewith duly empowered to act against any third party infringement or other conduct derogating the National Authority's interest in the Composite Mark, or the aim and purpose of Directive 2001/83/EC at its own expense. However, subject to the National Authority's decision not to act, the EU reserve the right, at its own discretion and expense, to take any enforcement action to protect its rights and interest, in which case the National Authority undertakes to promptly and fully cooperate with any such effort. Any decision on the measures to be undertaken by the EU shall take into consideration, where produced, the argumentations that the National Authority may submit to justify its refusal.
- .3. The Parties may also agree on a joint action in which case they may jointly appoint an attorney firm as their common representative (the "*Common Representative*"). The Parties shall consult with each other to decide on the course of action with respect to such action before the EU, acting as managing party, sends its instructions to the Common Representative. The costs of a joint action shall be equally shared.
- .4. The National Authority shall forthwith and without delay notify the EU, in writing, in the event it becomes aware of any third party infringing, misusing, or otherwise violating any of the rights of the EU in the Trademark or which the National Authority believes is, or may be infringing, diluting, or otherwise derogating any of the rights of the EU in the Trademark. The EU may - exclusively and at its sole discretion and expense - take action against such third party to enforce its rights and interest in the Trademark and, in such event, it shall be entitled to retain all monetary recovery from any such third party by way of judgment, settlement, or otherwise.
- .5. Nothing in this Agreement shall be construed as to bar the EU from protecting its right to the exclusive use of its trademarks, service marks, names or copyright against infringement thereof by any party or parties, including the National Authority either during the Term or thereafter.

#### 7. WARRANTIES AND LIMITATION OF LIABILITY

- .1. The EU represents and warrants that it has the full right and title to license the rights granted herein to the National Authority.
- .2. Except for the foregoing, the National Authority hereby expressly acknowledges that the EU makes no warranties of any kind to the National Authority, whether with respect to the Trademark, the Composite Mark, or otherwise. The EU hereby expressly disclaims any warranty obligation, including, without limitation, the implied warranties of merchantability and fitness for a particular purpose.
- .3. The National Authority warrants that - by means of appropriate written agreements with its employees, agents and/or subcontractors - such persons will be bound to observe the obligations of this Agreement as binding upon themselves.

#### 8. TERM, TERMINATION AND SEVERABILITY

- .1. The present Agreement shall enter into force as of the Enforcing Date and shall be effective for the duration of the Term, reserve the exceptions provided in this article.
- .2. The present Agreement shall terminate at the sole discretion of the EU if the National Authority is in breach of this Agreement and fails to remedy within ninety (90) days from the receipt of the written communication from the EU.
- .3. Except for terminations of this Agreement occurred for reasons other than the regular expiration of the Term, the National Authority shall have the right to execute and enforce the rights granted to it in Articles 2 and 7 for a period of ten (10) years following the regular expiration of the Term. However, in the case of a legal dispute involving directly the National Authority, the rights provided in Articles 7.2 and 7.3 shall remain with the National Authority for the whole duration of the related proceedings irrespective of the cause of termination.

.4. If any term, provision, covenant or condition of this Agreement is held or becomes invalid or unenforceable for any reason, the Parties agree to give the remaining provisions the maximum practicable enforceability that the applicable law allows, unless such remaining provisions would frustrate the implementation of the Agreement. In such case, the Parties herewith agree to substitute any provision of the Agreement that is or has become invalid by such a provision that in its contents is the most similar to the provision invalid.

#### 9. GOVERNING LAW AND JURISDICTION

.1. This Agreement shall be governed by and construed in accordance with the law of the European Union complemented, where necessary, by Belgian law.

.2. Any dispute, controversy or claim arising out of or relating to this Agreement shall be subject to the jurisdiction of the General Court of the European Union.

#### 10. MISCELLANEOUS PROVISIONS

.1. The headings of any given sections of this Agreement are solely for convenience or reference, and shall not be construed as having any bearing upon the interpretation or meaning of the provisions of this Agreement.

.2. Annexes A and B shall form integral part of this Agreement.

.3. The Parties hereby represent to be duly authorized and have the capacity to enter into and perform this Agreement.

Done in Brussels in two originals, each Party admitting to have received one original.

For the EU:

For the National Authority:

In Brussels,  
on [date] \_\_\_\_\_

In [place] \_\_\_\_\_,  
on [date] \_\_\_\_\_

\_\_\_\_\_  
*Xavier Prats Monne*  
*Director-General for Health and Food Safety*

\_\_\_\_\_  
*Dan Octavian Alexandrescu*  
*Secretary of State at Ministry of Health*

ANNEX A - THE COMPOSITE MARK

1.



Faceți click aici  
pentru a verifica  
dacă acest site  
funcționează  
în condiții legale

2.



Faceți click aici  
pentru a verifica  
dacă acest site  
funcționează  
în condiții legale