



**"PROFIT AND LOSS TRANSFER AGREEMENT**

*Between*

*of Vita 34 AG, with business address at Deutscher Platz 5 a, 04103 Leipzig, entered in the Commercial Register of Leipzig Local Court under HRB 20339,*

*-hereafter "VITA" -,*

*and*

*of Seracell Pharma GmbH, with business address at Schillingallee 68, 18057 Rostock, entered in the Commercial Register of the Rostock Local Court under HRB 14625,*

*-hereafter "GmbH" -,*

*- VITA and GmbH each individually also a "Party" and jointly the "Parties"-.*

*the following profit and loss transfer agreement is concluded:*

**PREAMBLE**

*The GmbH is a wholly owned subsidiary of VITA. The parties intend to conclude a profit and loss transfer agreement with effect from January 1, 2023 or, in the event that the agreement is entered in the commercial register after the end of December 31, 2023, with effect from January 1, 2024..*

*Having said this, the following agreement is concluded:*

**§ 1 PROFIT TRANSFER**

- (1) During the term of the agreement, the GmbH is obliged to transfer its entire profit to VITA in accordance with Section 301 of the German Stock Corporation Act (AktG), as amended. Subject to the formation and release of reserves in accordance with Section 4 (1) of this agreement, the profit to be transferred shall be the net profit for the year*

*without the profit transfer, less any loss carried forward from the previous year.*

- (2) *The obligation to transfer profits shall apply for the first time to the entire profits of the current fiscal year of the GmbH in which this agreement becomes effective.*

## **§ 2 ASSUMPTION OF LOSSES**

- (1) *The provisions of Section 302 of the German Stock Corporation Act (AktG), as amended, shall apply mutatis mutandis.*
- (2) *The entitlement to loss compensation shall arise, unless otherwise provided for in Subsection 1, in each case as of the balance sheet date of the relevant fiscal year of the GmbH.*

## **§ 3 PREPARATION OF THE ANNUAL FINANCIAL STATEMENTS**

- (1) *The annual financial statements of the GmbH shall be submitted to VITA for information, review and approval prior to their adoption.*
- (2) *The annual financial statements of the GmbH shall be prepared and adopted before the annual financial statements of VITA.*
- (3) *If the fiscal year of the GmbH ends at the same time as the fiscal year of VITA, the result of the GmbH to be taken over shall nevertheless be taken into account in the annual financial statements of VITA for the same fiscal year.*

## **§ 4 FORMATION AND RELEASE OF RESERVES**

- (1) *With the consent of VITA, the GmbH may only allocate amounts from the net profit for the year to revenue reserves to the extent that this is permissible under commercial law and economically justified on the basis of a reasonable commercial assessment. Other revenue reserves formed during the term of this agreement in accordance with Section 272 (3) Sentence 2 of the German Commercial Code (HGB) must be dissolved at the request of VITA and used to offset a net loss for the year or transferred as profit in accordance with Section 302 of the German Stock Corporation Act (AktG), as amended.*
- (2) *Other reserves and the profit carried forward and reserves from the period prior to the effectiveness of this agreement may not be transferred to VITA as profit. The same applies to capital reserves, regardless of whether they were formed before or after this agreement came into effect.*

## **§ 5 MATURITY AND INTEREST**

- (1) *The claim to compensation for the net loss for the year pursuant to Section 2 of this Agreement becomes due as of the balance sheet date of the relevant fiscal year of the GmbH.*
- (2) *The claim to transfer the profit pursuant to Section 1 of this Agreement becomes due in each case upon adoption of the annual financial statements of the GmbH for the past fiscal year.*
- (3) *VITA may demand an advance transfer of profits if and to the extent that an advance dividend could be paid under the law and the Articles of Association.*
- (4) *The claims to the transfer of profit pursuant to Section 1 of this Agreement and to the compensation of the net loss for the year pursuant to Section 2 of this Agreement shall bear interest at 5% p.a. from the date on which they become due (Section 5 (1) and (2) of this Agreement) pursuant to Sections 352, 353 HGB. Advances pursuant to Section 5 (3) of this Agreement shall not bear interest. Insofar as it transpires that advances made exceed the actual payment obligations resulting in accordance with Section 5 (2) of this contract, the excess amount paid shall be treated as an interest-bearing loan and interest shall be paid on it from the time the amount of the advance was paid in accordance with sentence 1.*

## **§ 6 EFFECTIVE DATE AND DURATION, TERMINATION**

- (1) *In order to become effective, the agreement requires the approval of the General Meeting of VITA and the Shareholders' Meeting of the GmbH.*
- (2) *The Agreement shall become effective upon entry in the Commercial Register at the registered office of the GmbH and shall apply retroactively to the beginning of the fiscal year of the GmbH in which this agreement becomes effective.*
- (3) *In the event that the Agreement is entered in the Commercial Register after the end of December 31, 2023, this Agreement shall apply retroactively for the period from the beginning of the fiscal year of the GmbH current at the time of entry in the Commercial Register. The Agreement shall have a fixed term of five (5) time years, calculated from the beginning of its effectiveness and at least until the date on which the income tax fiscal unity established by this Agreement has fulfilled its minimum tax term of five (5) years. The Agreement shall thereafter continue for an indefinite period of time unless terminated in writing by one of the Parties with six months' notice in compliance with the aforementioned minimum contractual period of five years. If the end of the term does not fall at the end of a fiscal year of the GmbH, the term shall be extended until the end*

of the then current fiscal year..

- (4) *The right to terminate the contract for good cause without notice remains unaffected. Good cause shall be deemed to include in particular:*
- *if VITA no longer holds the majority of voting rights from the shares in the GmbH;*
  - *the conversion, merger, demerger or liquidation of VITA or the GmbH;*
  - *or any other reason that leads to the discontinuation of the consolidated tax group between VITA and the GmbH for corporate income tax and trade tax purposes, taking into account the currently valid version of the German Corporate Income Tax Act (KStG).*
- (5) *Notice of termination must be given in writing.*
- (6) *If the contract ends, VITA must provide security to the GmbH's creditors in accordance with Section 303 of the German Stock Corporation Act (AktG), as amended from time to time, if the creditors so request.*

## **§ 7 FINAL PROVISIONS**

- (1) *Amendments and supplements to this agreement must be made in writing in order to be effective, unless notarization is required, and must be approved by the General Meeting of Shareholders of VITA and the Shareholders' Meeting of the GmbH.*
- (2) *Should any provision of this contract be or become invalid or unenforceable, or should a loophole be found in this contract, this shall not affect the remaining provisions of this contract. In this case, the parties undertake to replace the invalid or unenforceable provision with the valid and enforceable provision that comes closest in economic terms to the invalid or unenforceable provision or to fill the gap with the provision that they would have agreed on according to their economic intention if they had considered this point.*

*[signature lines of both parties]"*

*[End of the profit and loss transfer agreement]*