

**TERMS AND CONDITIONS
FOR INFORMATION TECHNOLOGY TRANSACTIONS
OF
ELI LILLY AND COMPANY**

Updated on October 30, 2009

Notice from Eli Lilly and Company to its Suppliers:

These terms and conditions (including the instructions attached hereto, "Terms") shall be applicable to any purchase orders received by you ("Seller") from Eli Lilly and Company ("Buyer") whether received by mail, telephone or electronic means (each a "Purchase Order"), from the date of Seller's receipt of these Terms until such time as Seller receives a revised edition of these Terms or other notice of revision or revocation of the same. These Terms shall apply to all transactions between Seller and Buyer until such further notice.

Additional or different terms, conditions or instructions applicable to a particular Purchase Order may be specified in the body of the Purchase Order, or in an exhibit thereto, and, in the event of a conflict, shall take precedence over these Terms with the exception of Section 2 (ELECTRONIC TRANSACTIONS) below.

Notwithstanding anything to the contrary contained herein, if Seller and Buyer have executed an agreement which governs the purchase and sale of the Products, Software or services, the terms of such agreement shall be controlling and shall take precedence over these Terms.

Please retain this document in your company files for future reference.

DEFINITIONS. The following words and phrases shall have the meanings set forth below for purposes of these Terms:

"Deliverable" means any materials, articles, substances, models, samples, software, data, records, reports, notices, documents, photographs, video recordings, audio recordings, drawings, designs, specifications, information and the like (whether physical, electronic, magnetic or other form) that Seller is specifically obligated to furnish Buyer pursuant to a Purchase Order.

"Hardware" means computer equipment purchased under a Purchase Order, including any Software, components, peripherals, instrumentation and other items required to make the Hardware operate. However, any operating system, database system and/or other Software, files and systems required to make the Hardware operate shall also be deemed to be Software hereunder for purposes of the representations, warranties and other covenants contained herein.

"Maintenance" means technical support to ensure the continued operation of the Software in conformity with its documentation and the right to receive updates, upgrades, patches and new versions of any Software and, to the extent that any Hardware is purchased with extended Maintenance, it shall include technical support, parts, onsite labor and, as applicable, replacements if any Hardware cannot be repaired within a reasonable period of time.

"Product" means any Hardware, Maintenance or Service procured under a Purchase Order.

"Services" means the services that Seller is to provide under any Purchase Order. Maintenance is a "Service" hereunder for purposes of the representations and warranties provided hereunder.

"Software" means any computer program, programming, modules, patches, upgrades, new versions and modifications procured under a Purchase Order.

"Work Product" means all articles, materials, goods, information, works of authorship, trademarks, artwork, drawings, text, specifications, calculations, reports, ideas, inventions, discoveries, processes, improvements, software and other documentation and materials created, developed, conceived or first reduced to practice by Seller, alone or with others, related to services rendered for Buyer under any Purchase Order or derived from information or materials Seller has received from Buyer.

- 1. APPLICABLE TERMS AND CONDITIONS:** Offer and acceptance of any Purchase Order issued by Buyer is expressly limited to these Terms and any other terms and conditions set forth in the Purchase Order. Any terms and conditions contained in a proposal, quotation or invoice of Seller shall not constitute a part of the contract of sale resulting from Seller's acceptance of a Purchase Order unless such terms and conditions are specifically incorporated or noted in the Purchase Order. Any purported acceptance containing additional or different terms shall be deemed to be an acceptance of these Terms and the applicable Purchase Order, notwithstanding such additional or different terms. Seller's shipment of Products or commencement of Services in response to a Purchase Order shall constitute acceptance on these Terms and any additional or different terms contained in any acknowledgment or invoice form submitted by Seller shall not constitute any part of the contract of sale resulting from Seller's acceptance.

2. ELECTRONIC TRANSACTIONS:

- A. Electronic Data Exchange (“EDI”) or web enabled EDI are the only acceptable methods of Purchase Orders and invoicing. Any exceptions must be approved by Buyer's Manager of Purchase to Pay Operations.
 - B. If Seller and Buyer have mutually agreed to the use of an EDI system to facilitate purchase and sale transactions, Seller agrees:
 - (i) That it shall not contest: (a) any contract of sale resulting from an EDI transaction under the provisions of any law relating to whether agreements must be in writing or signed by the party to be bound thereby; or (b) the admissibility of copies of EDI records under the business records exception to the hearsay rule, the best evidence rule or any other similar rule, on the basis that such records were not originated or maintained in documentary form;
 - (ii) That it shall use proper security procedures to protect its EDI records from improper access; and
 - (iii) That the records maintained by Buyer regarding EDI Purchase Orders issued by Buyer shall be controlling.
3. **PRICE:** Each Purchase Order shall be filled at the price specified on the Purchase Order. If no price is specified, the Purchase Order shall be filled at the lowest of (a) the price last quoted by Seller or (b) the price last paid by Buyer to Seller; provided, however, that if neither of the above can be determined, then the price shall be the prevailing market price as determined by Buyer in its reasonable discretion based upon its transactions with other vendors similarly situated to Seller. Unless otherwise provided in a Purchase Order, payment will be due sixty (60) days after Buyer's Accounts Payable Department receives an invoice that complies with the requirements of these Terms, except that Buyer may withhold payment of any amount that it may reasonably dispute in good faith until such dispute is resolved.
4. **MODIFICATION:** Any modification, rescission or amendment of a Purchase Order or the contract of sale resulting from its acceptance shall be void and without effect unless approved in writing by an authorized representative of Buyer's procurement department.
5. **INSPECTION:** All Products furnished pursuant to a Purchase Order shall be subject to Buyer's inspection and approval, including acceptance testing by Buyer to verify that the Products satisfy all requirements conveyed by Buyer to Seller, including any specifications or documentation relating to the Products. If Buyer discovers a non-conformity within ninety (90) days following delivery of the Products and Buyer notifies Seller of the non-conformity, notwithstanding prior receipt and payment therefor, Seller shall, at Buyer's sole discretion, either (i) correct the non-conformity at no additional charge in a timely, professional manner, or (ii) refund monies paid by Buyer for the non-conforming Products or services attributable to or affected by the non-conforming Products, in which case Buyer shall return such non-conforming Products to Seller at Seller's expense. Nothing in this Section shall be construed to limit or otherwise affect Buyer's indemnification rights, warranty rights or any other common law or statutory remedies.
6. **PACKAGING; DELIVERY; CANCELLATION:** Seller shall box, crate or package the goods for shipment in compliance with Applicable Laws, in accordance with good commercial and industry practice, and without charge to Buyer unless otherwise specified on the applicable Purchase Order. Buyer shall have the right to cancel all or any portion of any Purchase Order without liability if delivery is not made within the time stated in the Purchase Order.
7. **COMPLIANCE WITH APPLICABLE LAWS:** Seller represents and warrants that Seller's performance in connection with any Purchase Order complies with all Applicable Laws. For purposes hereof, (i) “Applicable Law” means any statute, law, treaty, rule, code, ordinance, regulation, permit, license, interpretation, certificate or order of any Governmental Authority, or any judgment, decision, decree, injunction, writ, order, subpoena, or like action of any court, arbitrator or other government entity; and (ii) “Governmental Authority” means any federal, state, local or foreign government entity, authority, agency, instrumentality, court, tribunal, arbitrator, regulatory commission or other body, whether legislative, judicial, administrative or executive. Without limiting the generality of the foregoing, Seller represents and warrants:
- A. That any Products, including any Software, provided under any Purchase Order will comply with all regulations promulgated under Section 264 of the Health Insurance Portability and Accountability Act (Public Law 104-91 - “HIPAA”); and that Seller shall in good faith execute any and all agreements that Buyer is required to have Seller execute in order that Buyer may comply with HIPAA;
 - B. That all Products supplied under any Purchase Order are supplied in full compliance with the Export Administration Regulations, 15 CFR Parts 700-799; and
 - C. That Seller has not and will not use in any capacity (whether directly or indirectly through subcontractors) the services of any person debarred under the Generic Drug Enforcement Act (specifically, under 21 USC 335a) in connection with any transactions under a Purchase Order.
8. **LICENSE:** Seller hereby grants to Buyer, and Buyer hereby accepts, on the following terms and conditions, a nonexclusive and nontransferable, fully paid-up, irrevocable, world-wide, perpetual license (unless otherwise expressly specified in the applicable Purchase Order) to use the Software for the number of users or copies of the Software provided on the Purchase Order (the “License”). Unless specified otherwise on the applicable Purchase Order, the License shall be an enterprise license for all applicable CPUs and available for use by Buyer,

its affiliated companies, service providers and other necessary parties. All license limitations on use by Buyer (per user, type of user (named, concurrent, etc.), per CPU, per node, per server, etc.) shall be specifically stated on the Purchase Order or shall be of no effect. Buyer agrees not to cause or permit the: (i) use, copying, modification, rental, lease, or transfer of the Software, except as expressly provided in these Terms; (ii) creation of any derivative works based on the Software or (iii) reverse engineering, disassembly, or decompilation of the Software. Seller and Buyer expressly agree that any Software shrink-wrap and click-through Software licensing agreements shall not apply to any Software purchased under any Purchase Order unless Buyer expressly agrees in writing to such shrink-wrap or click-through Software licensing agreement.

9. USE OF SOFTWARE AND DOCUMENTATION:

- A. Buyer may, as part of the License, make additional copies of the Software and Software documentation. Buyer may also make backup and archival copies of the Software and documentation. Unless otherwise provided on the applicable Purchase Order, Buyer shall have the right to use the Software on or in connection with any CPU that Buyer utilizes to fulfill its data processing needs. Buyer reserves the right to use the Software at one or more sites and to transfer such Software to any location as it may determine.
- B. Buyer, its agents, contractors, assignees and employees shall have the right to unlimited use of the Software and to operate and use the Software at any time and for any period of time at the convenience of Buyer within the scope of the License. Buyer may use the Software acquired hereunder for such purposes and functions as may be necessary or convenient for Buyer's business purposes, including processing affiliated companies and third party data, and the use of the Software shall not be restricted to any particular purpose or function.
- C. The License granted herein shall commence upon execution of the applicable Purchase Order.

10. REPRESENTATIONS AND WARRANTIES:

- A. Seller represents and warrants that at delivery and throughout the twelve (12) month period following receipt of the Products (or any update thereto) by Buyer (the "Warranty Period") the Products shall conform to and will operate in accordance with the Purchase Order and all documentation and specifications supplied by Seller to Buyer. Seller shall not be responsible to the extent failures are caused by: (a) Buyer's failure to use the Products in accordance with instructions included in the documentation provided to Buyer by Seller; or (b) the modification of the Products by any person other than Seller, its employees, agents, affiliates or subcontractors (unless such modification was authorized or approved by any of the foregoing).
- B. The Products, Deliverables, and Work Product do not and will not infringe any patent, copyright, trademark, trade secret or any other intellectual property rights of any other party, and any use thereof by Buyer consistent with these Terms does not infringe such rights. This representation and warranty does not apply to infringement arising solely from: (i) anything Buyer provides which is incorporated into the Product or Seller's compliance with any designs, specifications, or instructions provided by Buyer or a third party at Buyer's direction; (ii) Buyer's modification of the Product independent of Seller; or (iii) the combination, operation or use of the Product with any product, data, apparatus, or business method that Seller did not provide and could not reasonably anticipate
- C. Seller warrants that all tapes, diskettes or other electronic media provided to Buyer hereunder will be free from defects during the Warranty Period. Seller shall, within five (5) days of notification by Buyer of such defect, replace any defective electronic media at no additional cost to Buyer.
- D. Seller represents and warrants that it shall at all times document the operation of the Products in a manner consistent with the best practices of the Software development industry, and such documentation shall accurately reflect the operation of the Products and enable a person reasonably skilled in computer programming and in possession of the Products source code to use and maintain the Products fully and completely.
- E. Seller represents and warrants that if Maintenance services are elected by Buyer, the Maintenance services agreement shall become effective upon installation of the IT Product. Buyer's payment obligations for Maintenance services shall begin at the end of the Warranty Period of the Products and shall renew annually unless otherwise terminated by Buyer, provided Seller notifies Buyer in writing thirty (30) days in advance of such renewal date. Notwithstanding the foregoing, Buyer's failure to install or utilize any improvements, enhancements or newly released versions of the IT Product shall have no effect on Seller's provision of Maintenance services. Seller warrants and represents that Maintenance services for the current version and the two immediately preceding versions of an IT Product shall always be available from Seller, and Maintenance services for any other prior versions of the IT Product shall be available for a minimum of two (2) years from the date such IT Product was purchased by Buyer or, in the case of new versions provided under Maintenance, for at least two (2) years from the date that Buyer received such new version. Seller shall provide to Buyer as part of Maintenance services, updates and upgrades to the IT Product at no additional cost to Buyer. The provisions contained in these Terms shall control over any conflicting provisions contained in any maintenance agreement of Seller.
- F. Seller warrants that the Services will be executed in accordance with each Purchase Order and all Applicable Laws. Services will be rendered with at least that degree of skill and knowledge normally possessed and employed by members of the relevant trade or profession in good standing in the United States of America. Seller shall perform all Services under any Purchase Order on a professional best effort basis and in a diligent, workmanlike and expeditious manner. Unless Buyer directs otherwise, Seller further

warrants that all materials utilized in the services will be new. Seller warrants that all Work Product produced under any Purchase Order shall be an original creation for Buyer unless Buyer acknowledges otherwise in writing. Seller warrants that it has enforceable written agreements with all of its employees and all subcontractors: (i) assigning to Seller ownership of all patents, copyrights and other proprietary rights created in the course of their employment or engagement; and (ii) obligating such employees and subcontractors upon terms and conditions no less restrictive than contained herein, not to use or disclose any proprietary rights or information learned or acquired during the course of such employment or engagement, including, without limitation, any Work Product, and any other information. Seller shall take appropriate steps to adequately protect Buyer's data in its possession or information derived therefrom, including, without limitation, firewall protection, backup processes and procedures, and disaster recovery plans.

- G. Seller represents and warrants that the occurrence in or use by any IT Product supplied by Seller of any dates, including without limitation any date with a year specified as "99" or "00", regardless of other meanings attached to these values, and any date before, on or after January 1, 2000 ("Millennial Dates") will not adversely affect its performance with respect to date-dependent data, computations, output, or other functions (including, without limitation, calculating, comparing, and sequencing) and that the IT Product will create, store, process and output information related to or including Millennial Dates without errors or omissions and at no additional cost to Buyer. At Buyer's request, Seller will provide sufficient evidence to demonstrate the adequate testing of the IT Product to meet the foregoing requirements.
- H. Seller warrants that, unless required for the Products to perform in accordance with the documentation, the Products shall (a) contain no hidden files; (b) not replicate, transmit or activate itself without control of a person operating computing equipment on which it resides; (c) not alter, damage, or erase any data or computer programs without control of a person operating the computing equipment on which it resides; and (d) contain no key, node lock, time-out or other function, whether implemented by electronic, mechanical or other means, which restricts or may restrict use or access to any programs or data developed under the applicable Purchase Order, based on residency on a specific hardware configuration, frequency or duration of use, or other limiting criteria. If any IT Product has any of the foregoing attributes, and notwithstanding anything elsewhere in the applicable Purchase Order to the contrary, Seller shall be in default of the Purchase Order, and no cure period shall apply.

Seller warrants that it shall not use or incorporate Buyer's Confidential Information, data or intellectual property in Seller's Software or other products or services.

- 11. **RIGHTS TO WORK PRODUCT AND DELIVERABLES:** Buyer shall own all right, title and interest, including intellectual property rights, in the Work Product and Deliverables, and Seller hereby assigns such right, title and interest to Buyer. Any Work Product that constitutes "work made for hire" (within the meaning of United States copyright law) will be treated as such. Notwithstanding the foregoing, (i) Seller shall retain ownership of any intellectual property that it invented, created, developed or reduced to practice outside the course of its performance under any Purchase Order and without use of Buyer information or materials, but if any such intellectual property is incorporated into the Work Product or Deliverables or if Buyer needs rights in any such intellectual property to make full use of the Work Product or Deliverables for all purposes, then Seller hereby grants to Buyer a perpetual, royalty-free, world-wide, non-exclusive license therein to enable Buyer to use the Work Product and Deliverables for all purposes (and for purposes hereof, "Buyer" shall be deemed to include its affiliates, contractors and others acting through or on behalf of Buyer); (ii) if the Work Product or Deliverables incorporate any intellectual property owned or controlled by a third party, then Seller hereby (a) grants to Buyer a perpetual, royalty-free, world-wide, non-exclusive license or sublicense therein to enable Buyer (including its affiliates, contractors and others acting through or on behalf of Buyer) to use the Work Product and Deliverables for all purposes, and (b) represents and warrants to Buyer that it has the right to grant such license or sublicense and to incorporate such intellectual property into the Work Product or Deliverables; and (iii) if the Work Product or Deliverables incorporate any intellectual property (including Software) that Buyer has purchased or licensed from Seller pursuant to another written agreement, then such other agreement or provision shall control each party's rights with respect to such intellectual property. Each party shall execute any documents and instruments and take any actions reasonably requested by the other to effectuate, record or perfect the foregoing allocation and assignment of rights.
- 12. **LICENSE OR MAINTENANCE TERMINATION:**
 - A. In the event of a material breach by Buyer of any of its obligations under any Purchase Order relating to a License, Seller may terminate the License subject to such material breach upon sixty (60) days advance written notice to Buyer, provided that Buyer has not cured the breach within such notice period. This right to terminate shall not apply to Buyer's breach of any obligation relating to any Maintenance services. Sixty (60) days after termination of such Purchase Order pursuant to this Section 12(A), Buyer shall discontinue further use of the terminated License. Buyer shall, upon written request by Seller, provide Seller with written certification indicating the destruction of such copies of the applicable Software in Buyer's possession or under its custody or control.
 - B. In the event of a breach by Seller of any of its representations, warranties or obligations under these Terms or any Purchase Order relating to a License, Buyer may terminate the License, as well as any associated Maintenance services, or the Maintenance services (if any) alone, upon thirty (30) days notice to Seller, provided that Seller has not cured the breach within such notice period.
 - (i) If Buyer terminates the License and the Maintenance services based on such breach, Seller shall refund any and all amounts paid hereunder by Buyer for the License and shall refund on a pro rata basis any and all amounts paid hereunder by Buyer for the Maintenance services. Sixty (60) days after termination of the License pursuant to this Section 12(B)(i), Buyer shall discontinue

further use of such License. Buyer shall, upon written request by Seller, provide Seller with written certification indicating the destruction of all copies of the applicable Software in Buyer's possession or under its custody or control.

- (ii) If Buyer terminates only the Maintenance services, Seller shall refund on a pro rata basis any and all amounts paid hereunder by Buyer for Maintenance services. Buyer shall retain all of its rights under the License.

The other provisions of the Purchase Order and these Terms shall survive termination of any License.

13. **DATA:** Buyer owns all rights to any data or results generated as a result of the use of the IT Product and may use, execute, display, copy, manipulate and create derivatives of any data or results generated as a result of the use of the IT Product.
14. **SAFETY AND SECURITY:** Seller will comply with, and will cause its affiliates and subcontractors to comply with, all policies and procedures that Buyer establishes to enhance the safety or security of Buyer's facilities or of persons at or near Buyer's facilities, including measures restricting access such as the use of identification badges and passwords. Seller will promptly notify Buyer of any violation of such policies and procedures. Seller will comply with, and will cause its affiliates and subcontractors to comply with, the instructions of any Buyer security official that are reasonably necessary to redress a threat, or to avoid an imminent threat, to the safety or security of such facilities or persons. Buyer retains its right to restrict or refuse any person (including Seller its affiliates and subcontractors) access to Buyer's facilities, computers, or other information systems. Without limiting the generality of the foregoing, Buyer may restrict or refuse access to any individual who does not do any of the following to Buyer's satisfaction: (i) submit to and pass a drug screen, (ii) pass a background check or (iii) accept or acknowledge in writing a personal obligation to protect Buyer's Confidential Information. Such restriction or refusal excuses Seller's performance only if it renders Seller's performance impracticable, does not comport with Buyer's written procedures, and is manifestly unreasonable.
15. **CONFIDENTIALITY:** Buyer's "Confidential Information" includes all information that Buyer deems confidential or proprietary, including information deemed confidential by virtue of Buyer's obligations to another party and Confidential Information developed by Seller in connection with any Purchase Order. Buyer's Confidential Information includes, but is not limited to, information about research and development plans and results; new compounds and processes; evaluation procedures (including clinical and field testing); product formulations; manufacturing methods; applications to government authorities; pricing or cost; construction plans; sales, marketing, and advertising studies and plans; customer lists; computer information and Software; special techniques unique to Buyer's business; information subject to a right of privacy; and information Buyer maintains under a system of protection against unauthorized access. Seller will neither (i) disclose Buyer's Confidential Information except as authorized below or by Buyer in writing; nor (ii) use Buyer's Confidential Information for any purpose other than meeting Seller's obligations under any Purchase Order. Seller may disclose Buyer's Confidential Information:
 - A. To its representatives, affiliates and subcontractors who need to know the information for the purpose of meeting Seller's obligations under a Purchase Order; provided that such representatives, affiliates and subcontractors must have contractual obligations that prohibit any disclosure and use of Buyer's Confidential Information in accordance with these Terms. Seller is responsible to Buyer for any unauthorized disclosure or use of Buyer's Confidential Information by Seller's representatives, affiliates or subcontractors.
 - B. To the extent compelled by Applicable Law; provided, however, that Seller will give Buyer reasonable advance notice of the disclosure to the extent such advance notice is permitted by Applicable Law.
 - C. In communications to its attorneys or accountants who have a professional obligation to maintain such information in confidence. Seller is responsible to Buyer for disclosure or use by any such persons of Buyer's Confidential Information not authorized by Buyer.

Promptly upon Buyer's request, Seller will either return or destroy all Records of Buyer's Confidential Information in Seller's possession or control. With respect to electronic Records, "destroy" includes destroying the physical medium on which a Record is stored or completely and permanently removing a Record from its storage medium.

16. **PUBLICITY:** Except to the extent expressly permitted under this Section, Seller shall not disclose any information concerning any Purchase Order or the contract of sale resulting from the acceptance thereof, including its existence, without the prior written consent of Buyer. Seller shall not use the name of Buyer, any employee of Buyer or any product or service of Buyer in any press release, advertising or materials distributed to prospective or existing customers or any other public disclosure, except as required by law or allowed in this Section. If required by law, Seller shall provide copies of the disclosure for the prior review and comment by Buyer's external corporate communications (public relations) department no less than ten (10) days prior to disclosure. In no event will Seller (i) represent, directly or indirectly, that any product or service provided by Seller has been approved, recommended, certified or endorsed by Buyer, or (ii) use Buyer's logos or other trademarks without the prior written consent of Buyer.
17. **ASSIGNMENT:** Seller shall not in any manner delegate its duty of performance or assign its rights or obligations under any Purchase Order or the contract of sale resulting from its acceptance thereof without Buyer's prior written consent, except that accounts receivables may be assigned in accordance with Applicable Law. Any attempted assignment in violation of the preceding sentence shall be of no force or effect.
18. **CHOICE OF LAW; FORUM:** Each Purchase Order and any contract of sale resulting from its acceptance shall be governed in all respects by the laws of the State of Indiana, excluding its rules on conflict of law. Any action related to these Terms or any Purchase Order shall be brought and maintained exclusively in Marion County, Indiana.

19. **UCC:** Seller and Buyer hereby expressly agree that the provisions of the Uniform Commercial Code as adopted by the State of Indiana shall apply to any Purchase Order, including, but not limited to, any Software purchased under any Purchase Order.
20. **UCITA:** Seller and Buyer hereby acknowledge and agree that any provisions of any state law adopting exactly or in modified form the Uniform Computer Information Transactions Act shall not be applicable to any Purchase Order. Furthermore, both Seller and Buyer waive any and all rights arising from any such law.
21. **RECORDS AND AUDITS:**
- A. At its own expense, Seller will create and maintain all Records (as defined below): (i) required by these Terms or under any Applicable Laws that relate to Seller's performance of any Purchase Order; (ii) sufficient to demonstrate that any and all amounts invoiced to Buyer under any Purchase Order are accurate and proper in both kind and amount; (iii) sufficient to demonstrate the accuracy of any representations or reports submitted to Buyer in connection with any Purchase Order; and (iv) sufficient to enable Buyer to comply with Applicable Laws and other legal obligations, to the extent that Seller has or reasonably should have knowledge of those Applicable Laws and other legal obligations. For purposes hereof, "Record" means all information, data, text, images, sounds codes, source codes, computer programs, Software, databases or the like, used, created or obtained in the performance of any Purchase Order, inscribed in tangible medium or stored in an electronic or other medium and that is retrievable in perceivable form.
 - B. Seller will maintain all Records for the longest of the following retention periods that applies: (i) any period prescribed by Applicable Law or stated expressly in any Purchase Order; (ii) for Records related to any Seller invoice, for three (3) years after payment of the invoice by Buyer; (iii) for Records related to reports submitted to Buyer, for three (3) years after the report is submitted; and (iv) for all Records not addressed by one of the above, for three (3) years from the date such Records were created or obtained by Seller.
 - C. At no additional cost to Buyer, Seller will allow Buyer to inspect (and, upon request, Seller will furnish copies of) Records that Seller is required to create or maintain pursuant to this Section for the purposes of evaluating and verifying: (i) compliance with the requirements of these Terms and any Purchase Order; (ii) compliance with Applicable Law; (iii) the accuracy and propriety of any invoice submitted to Buyer; and (iv) the accuracy of any representations or reports submitted to Buyer.
 - D. At reasonable times and with reasonable advance notice, Buyer may enter and inspect any premises where Records are maintained or services are performed as Buyer deems necessary to accomplish the evaluations and verifications described in subsection C. Seller will cooperate with Buyer and provide reasonable assistance to Buyer to facilitate the evaluation and inspection, and Buyer will reasonably cooperate with Seller to mitigate disruption to Seller's operations. In the event that Records are maintained, services are performed, or Buyer's property is kept at premises that Seller does not control, Seller will secure rights of entry and inspection sufficient to allow Buyer to exercise its rights under this Section.
 - E. Buyer, its employees or designees may exercise Buyer's rights of entrance and inspection under this Section. Examples of persons or designees that Buyer may designate include Buyer's independent auditors and representatives of any Governmental Authority having jurisdiction over Buyer or its activities related to any Purchase Order.
 - F. For Records generated by electronic databases, spreadsheets, programs or the like, Buyer's rights to access and inspection under this Section extend to the database, spreadsheet or program that generated the Record as well as the Record itself.
 - G. Some Records required by this Section may also fall within the definition of Work Product or Deliverables. Seller's obligations under this Section do not diminish Seller's other obligations toward, or Buyer's property rights to, such Records. Seller's obligations to maintain Records under this Section are extinguished to the extent that Seller properly satisfies another obligation in these Terms or any Purchase Order to deliver or to dispose of such Records.
 - H. Buyer will pay its own expenses for any inspection of the Records or Seller's premises. However, if in any audit, Buyer determines that material issues exist that result, resulted or will result in an overcharge of one percent (1%) or more of the invoiced amount for the audited period, Seller will, within thirty (30) days of receipt of Buyer's notice and supporting documentation, reimburse Buyer for its out-of-pocket costs incurred in conducting the audit, in addition to any remedies that Buyer may have for the overcharge (such as a refund). This subsection is intended as a fair allocation of audit expenses, not as damages or a penalty.
22. **TAXES:** Buyer will not reimburse Seller for taxes related to a transaction, except as provided on Buyer's Supplier Portal (on the Internet at <http://www.supplierportal.lilly.com>).
23. **PERSONAL INFORMATION:** To the extent Seller receives, transmits, stores or otherwise possesses any Personal Information on behalf of Buyer, Seller will comply with all requirements of the version of Buyer's Vendor Privacy Standard (published on the Internet at <http://www.supplierportal.lilly.com> or otherwise made available to Seller). For purposes hereof, "Personal Information" means any information provided by Buyer and/or its affiliates or collected by Seller for Buyer and/or its affiliates: (i) that identifies, either alone or when taken in combination with other information, an individual; or (ii) from which identification or contact information of an individual person can be derived. Personal Information can be in any media or format, including computerized or electronic records as well as paper-based files. Buyer may revise its Vendor Privacy Standard from time to time in its sole discretion. All the requirements of the Vendor Privacy Standard are

in addition to all of Seller's other obligations under these Terms, including those that are similar in nature. All Personal Information is deemed to be Buyer's Confidential Information regardless of whether it satisfies that definition. Notwithstanding anything in these Terms to the contrary, (a) no action by Buyer expressly permitted by the Vendor Privacy Standard is a breach of these Terms by Buyer, and (b) no such action excuses Seller's performance under any Purchase Order.

24. **INDEMNIFICATION:** Each of Buyer and Seller will indemnify and defend the other (and the other's affiliates and representatives) against all losses, damages, costs or expenses, including interest, penalties, reasonable attorney or accountant fees, and expert witness fees related to disputes between the parties and to third party claims arising from any breach by it of its representations, warranties or obligations under these Terms or any Purchase Order or from any negligence or more culpable conduct by it (or by its affiliates or subcontractors (if any) or any of their respective representatives) in connection with its performance under any Purchase Order.

In addition to the foregoing, in the event Seller breaches any warranty on non-infringement for a Product, Work Product or Deliverable, Buyer may elect one of the following remedies, in addition to recovering any other damages or indemnification under these Terms:

- A. Require Seller to choose between furnishing either: a non-infringing substitute article or performance reasonably acceptable to Buyer, or obtaining for Buyer's benefit a license or assignment of rights sufficient to afford Buyer the full benefits of the Deliverables, Products, Software, and Services, both alternatives being at Seller's expense.
 - B. Recover (or withhold) from Seller the portion of Seller's compensation attributable to the infringing Services, Products, Software, or Deliverables, with a pro-rata deduction for the months between the Effective Date and the moment of notice by Buyer of breach of warranty of non-infringement, relative to sixty (60) months after the date of delivery of the Product(s).
25. **INSURANCE:** Seller shall maintain liability insurance policies covering all activities related to any Purchase Order and as otherwise required under Applicable Law (including worker's compensation coverage). Without limiting the generality of the foregoing, Seller shall maintain commercial general liability insurance with minimum limits of at least \$1,000,000 per occurrence and \$2,000,000 aggregate.
26. **TERMINATION:** Buyer shall have the right at its absolute discretion for five (5) days following Buyer's written notice to Seller, to cancel, in whole or part, any Purchase Order or any contract resulting from its acceptance. In the event of such cancellation, Buyer shall have no obligation to Seller except the obligation to pay all costs actually and reasonably incurred by Seller prior to the date of termination plus a normally accepted trade allowance on such costs as full payment of Seller's overhead and profit, provided, however, that in no event shall Buyer be obligated to pay an amount in excess of the amount set out in the applicable Purchase Order. Advance payments will be refunded accordingly. If any Purchase Order or any resulting contract is canceled as a result of the default of Seller, Buyer shall have no obligation to pay Seller in connection with the applicable Purchase Order. Notwithstanding the foregoing, termination of any License granted pursuant to a Purchase Order shall be governed by Section 12.
27. **SUBCONTRACTORS:** Supplier shall not use any subcontractor without the prior written approval of Buyer. If Supplier should use a subcontractor as permitted pursuant to the previous sentence, Supplier shall be fully responsible for services performed by the subcontractor to the same extent as if the services were performed directly by Supplier.
28. **LIENS:** Seller agrees and warrants that no mechanics liens shall attach to Buyer's property by virtue of Seller's default in paying its employees, suppliers or subcontractors.
29. **COMPLIANCE WITH ANTI-BRIBERY COMMITMENTS:** Seller will comply with the applicable provisions of the Anti-Bribery Commitments for Lilly Procurement Contracts as revised by Buyer from time to time and published at <http://supplierportal.lilly.com> or otherwise made available to Seller. All the requirements of the Anti-Bribery Commitments for Lilly Procurement Contracts are in addition to all of Seller's other obligations under these Terms, including those that are similar in nature. Notwithstanding anything in these Terms to the contrary, an action by Buyer expressly permitted by the Anti-Bribery Commitments for Lilly Procurement Contracts neither constitutes a breach of these Terms by Buyer nor excuses Seller from performing its obligations under these Terms.
30. **EXPORT INFORMATION:** For each Deliverable, Seller shall provide to Buyer a proposed Export Control Classification Number ("ECCN"). Buyer will make the final determination regarding the appropriate ECCN, and Seller shall provide reasonable assistance to Buyer, at no additional charge to buyer, to enable Buyer to determine the appropriate ECCN.
31. **CUSTOMS AND IMPORTS:**
- A. Regarding any foreign-sourced Deliverables imported in the United States ("Imported Products"), Seller shall provide information to Buyer, in the form, quality and detail reasonably required by Buyer, to enable Buyer to comply with applicable customs requirements, including the Customs-Trade Partnership Against Terrorism ("CTPAT"). If Seller participates in Customs Industry Partnership Programs ("C-IPAT"), Carrier Initiative Program ("CIP"), Super Carrier Initiative Program ("SCIP"), or Business Anti-Smuggling Coalition ("BASC"), Seller shall so notify Buyer.
 - B. Imported Products must be clearly marked with the country of origin (for customs purposes) on each container or on the merchandise as applicable.

- C. Invoices for Imported Products. For Imported Products, invoices (both commercial and pro forma) must contain (written in English) sufficient information and detail (as described below) as reasonably required by Buyer to comply with applicable customs requirements. A pro forma invoice is one provided for customs valuation purposes only, is not expected to be directly paid, and should contain the statement: "Value for Customs purposes only." Pro forma and commercial invoices must have consistent valuations for goods.
- D. Classification of Imported Products. At time of purchase of Imported Products, Seller shall provide to Buyer a proposed tariff classification for same as determined from the Harmonized Tariff Schedule of the United States. Buyer will make the final determination of the appropriate tariff classification and provide it to Seller for inclusion in the invoices. Buyer may choose to classify an item of imported goods within a special U.S. customs duty preference program. Such programs may require additional documentation from the supplier of the goods. Seller shall provide reasonable assistance to Buyer, at no additional charge to Buyer, to enable Buyer to comply with such program.

I n s t r u c t i o n s :

MARKINGS:

- Show Buyer's Order number on all packages.
- Each Container must also be plainly identified by:
 - Name of Manufacturer
 - Buyer's Product Title
 - Net Weight
 - Parcel Number of Total Parcels Shipped
 - Country of Origin Marking

ADDITIONAL INSTRUCTIONS FOR SHIPMENTS OF DRUGS, CHEMICALS, AND PACKAGING MATERIALS:

- Each container must also be plainly identified with the Manufacturer's Control Number, Manufacturing Location, Buyer's Item Code, Lot or Batch Number.
- Keep number of lots to a minimum.

ADDITIONAL INSTRUCTIONS FOR PRODUCT RECALLS OR TECHNICAL BULLETINS:

Mail all product recalls using United States Postal Service Certified Mail using the following address format:

Eli Lilly and Company
Re: Supplier Product Recall
1 Lilly Corporate Center
Indianapolis, IN 46285

Mail all Technical bulletins using United States Postal Service Certified Mail using the following address format:

Eli Lilly and Company
Re: Supplier Technical Bulletin
1 Lilly Corporate Center
Indianapolis, IN 46285

PACKING SLIPS:

A packing slip itemizing contents must be placed on the outside of each shipment in a protective envelope. Buyer's purchase order line number must appear with each item on Seller's packing slip.

SHIPPING ADDRESS AND DOCUMENTATION:

- Domestic and International Shipments. Inbound Routing Instructions: Prior to shipment, Seller shall meet Lilly requirements regarding the Lilly Inbound Routing Instructions as provided on the Internet at <http://supplierportal.lilly.com> or otherwise made available to Seller.

INVOICES:

Standard Payment Terms:

Net sixty (60) days from the date of receipt of a valid and accurate invoice in Accounts Payable.

Show Buyer's purchase order number, net weights, payment terms and transportation terms. Buyer's purchase order line number must appear with each item on Seller's invoice.

For Imported Products, invoices (both commercial and pro forma) must contain (written in English):

- Name and complete address of seller/ manufacturer;

- Accurate and detailed description of the goods (adequate to permit accurate customs classification and clearance);
- The name and contact information of the person receiving the goods at Lilly;
- Quantity, unit of measure and purchase price of each item; tariff classification code from the Harmonized Tariff Schedule of the U.S.; clearly stated terms of sale; Chemical Abstract Service Number (CAS#) and International Non-Proprietary Name (INN), if available, for chemical compounds;
- Currency of purchase;
- Country of origin of goods;
- Separately itemized freight and insurance if to be paid by Buyer and included in the invoice;
- The port of entry to which the Imported Products are shipped; and
- Chemical compounds that are proprietary in nature shall have sufficient description to enable proper classification (e.g. Quinoline (with no other fused ring structure) derivatives including ester and halogens).

Standard Invoice for VAT:

- All VAT charges submitted to Lilly will be shown as a separate line item on all Supplier invoices.
- The invoices which include VAT charges must be delivered to Lilly in original paper invoice for payment to be considered.
- Vendors submitting invoices via EDI or web enabled EDI process should not submit duplicate paper invoices for this purpose. Further instructions can be obtained by calling (877) 511-1529.
- For instructions regarding Standard of Documentation Required for European VAT Reclaim see: <http://supplierportal.lilly.com>.

Suppliers that have been pre-approved to mail invoices to Accounts Payable should use the following address:

ELI LILLY AND COMPANY
 ACCOUNTS PAYABLE DIVISION
 P.O. BOX 12000
 AGUADILLA, PR 00605

Note: Invoices submitted on paper that have not been pre-approved may be assessed a \$50 processing fee. Suppliers cannot assess this fee or any other invoice processing fees on their invoice.

Due dates and cash discounts are computed from the date an accurate invoice is received in Accounts Payable. Improper invoices may be returned for correction without loss of discount. Payments made by paper check are mailed on the due date. In case of disputes, doubt concerning quality, or where rejections occur, payment may be deferred without penalty or loss of discount. Additional questions on Lilly's invoice handling process may be directed to (877) 511-1529.

BILLS OF LADING:

Show Buyer's order number, net weight, gross weight, and/or tare weight where applicable, as well as the number of containers; if drugs or chemicals, also show number of containers in each batch. If transportation is F.O.B. origin and transportation charges are for Buyer's account, ship at released value rates that will produce lowest transportation cost via Buyer's designated carrier. When Buyer's carrier is not used and that results in higher transportation charges for Buyer, the excess charges will be deducted from Seller's invoice prior to payment.