

Lilly Participation Agreement and RFX Terms and Conditions

This Participation Agreement and RFX Terms and Conditions (“Agreement”), govern your participation in any Request for Information, Request for Proposal, or Request for Quotation (“RFX”) between Eli Lilly and Company, an Indiana corporation and/or its Affiliates (“Lilly”) and You. You represent acceptance of this Agreement by electronically indicating Your acceptance in Lilly’s eSourcing System, Ariba, or through written confirmation (which can occur electronically via email) if the RFX is not issued via Ariba. If You are entering into this Agreement on behalf of a company or other legal entity, You represent that You have the authority to bind such entity to this Agreement. In which case the terms “You”, “Your”, and “Participant” shall refer to such entity. You and Lilly are each a “Party” and collectively “Parties” to this Agreement.

Section 1 Definitions

- 1.1 **“Affiliate”** means, with respect to any Person, any entity that, at the relevant time (whether as of acceptance of this Agreement or thereafter) directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with such person, for so long as such control exists.
- 1.2 **“Confidential Information”** means information deemed confidential or proprietary by a party to the Agreement (the “Disclosing Party”), including Information deemed confidential or proprietary by virtue of the Disclosing Party's obligations to another Person, that may be disclosed to or acquired by or on behalf of, the other party (the “Receiving Party”) or that may be created by the Receiving Party that is based on a disclosure of such Information received from the Disclosing Party.
- 1.3 **“Person”** includes an individual or a partnership, corporation, association, limited liability company or other form of organization.
- 1.4 **“Representative”** means an employee, officer, director, contractor, agent, or counselor.

Section 2 Background

- 2.1 Lilly is interested in having Participant respond to a RFX to identify a Supplier for potential future business interests.
- 2.2 The RFX includes but is not limited to those activities described within the RFX documentation provided by Lilly to Participant during which proprietary or confidential information may be shared.
- 2.3 Lilly and Participant want to enter into this Agreement in order to facilitate Lilly’s engagement of Participant to furnish responses and perform activities as described within the RFX documentation and facilitate sharing of proprietary or confidential information.

Section 3 Preservation of Prior Written Agreement

- 3.1 This Agreement is not intended to supersede or revise any prior written agreements between the parties that apply to this RFX. If a prior written agreement conflicts with the terms of this Agreement, this Agreement only applies to the extent that it does not conflict.

Section 4 Participant Representations and Warranties

- 4.1 By indicating Your intent to respond to a particular RFX in Lilly's eSourcing system, or by written confirmation, Participant represents that it has a bona fide interest in participating in the RFX.
- 4.2 You represent that You will comply with all applicable laws, rules, regulations and codes with respect to the proposed products and services that may be provided to Lilly as a result of Your response to this RFX.

- 4.3 You agree that You will comply with all Lilly policies as provided by Lilly during this RFX.
- 4.4 You represent and warrant that Your response to the RFX will not be generated through the utilization of an Artificial Intelligence (“AI”) model and that You will not share or upload the RFX into an AI model to respond to this RFX. Such actions would be considered a breach of this Agreement and will disqualify you from participation in the RFX.
- 4.5 You represent and warrant that all schedules, proposals, documents, financial statements and materials provided and to be provided by You to Lilly do not contain any untrue statement of material fact or omit any material fact which may make the statements contained therein misleading. In the event that financial statements are provided to Lilly, You warrant that the financial statements present fairly and accurately in all material respects Your financial position, the results of Your operations and costs and expenses for the periods specified and have been prepared in conformity with Generally Accepted Accounting Principles. Upon request by Lilly, You agree to provide Lilly with updates to any due diligence or RFX material as part of Lilly’s ongoing vendor management program.
- 4.6 In relation to the independence of Your bid and Your pricing, You represent and warrant that:
 - 4.6.1 The prices in Your proposal have been arrived at independently without any consultation, communication, or agreement with any other bidder or competitor, except those specifically listed in Your proposal, if any.
 - 4.6.2 The prices in Your proposal have not been and will not knowingly be disclosed by You, directly or indirectly, to any other bidder or competitor before the conclusion of any contract arising from this RFX.
 - 4.6.3 No attempt has been made by You or will be made by You to induce any other person to submit or not to submit a proposal.
 - 4.6.4 You certify that You received no assistance in preparing Your response from any current or former employee of Lilly whose duties relate(d) to this RFX, except for any preparation prior to issuance of the RFX or during the open-question period.
- 4.7 In relation to gifts and gratuities, You represent and warrant that:
 - 4.7.1 You shall not give or offer to give any bribe, improper payments, or inappropriate gift, including expensive entertainment, to any Lilly employees or members of their families or other third parties engaged by Lilly.
 - 4.7.2 You certify by submission of Your proposal that You know of no gifts or gratuities, of any kind whatsoever, paid to any Lilly employee or any member of their families by You, Your employees and/or agents during the past five (5) years, except as otherwise set forth in writing in Your RFX response.

Section 5 Participant RFX Obligations

- 5.1 Participant may only contact the Lilly contact provided within the RFX documentation.
- 5.2 Participant bears all of its own costs responding to this RFX, including but not limited to: fees, time, and materials of preparing its submission and responding to any additional requests for information.
- 5.3 Participant is responsible for:
 - 5.3.1 responding to the RFX by the specified date and in full. No questions should remain unanswered.
 - 5.3.2 addressing any questions, it may have regarding the RFX with Lilly within the specified time frame.

- 5.4 Participant may withdraw from the RFX process for any reason, except during a timed bid period (such as an eAuction). Lilly requests the courtesy of written notice if Participant chooses to withdraw, although none is required. Participant's failure to submit a response to the request or to furnish any additional information requested by Lilly within the time designated by Lilly is deemed a withdrawal.

Section 6 Participant RFX Terms

- 6.1 All information, including quoted pricing, furnished in any proposal submitted by You will remain valid and applicable for a minimum of ninety (90) days from the date that the proposal is received by Lilly.
- 6.2 You agree that You shall not, without the prior written consent of Lilly in each instance, use in advertising, publicity or otherwise the name of Lilly, or any affiliate, partner or employee of Lilly, nor any trade name, trademark, trade device or simulation thereof owned by Lilly, or represent, directly or indirectly, that any product or any service provided by You has been approved, recommended, certified, or endorsed by Lilly. Should any proposal made by You under this RFX be accepted in whole or in part by Lilly, You and Lilly agree not to advertise any affiliation with each other and not to publicly reveal the existence of any agreement between You and Lilly or any of the terms of any such agreement, without the prior written consent of Lilly.
- 6.3 In the event that You are awarded a contract, Your response to this RFX may be attached to the actual contract and all parts of Your proposal would become binding unless otherwise provided in the contract.

Section 7 Lilly RFX Obligations

- 7.1 Lilly may do any of the following in its sole discretion:
- 7.1.1 Withdraw the request.
 - 7.1.2 Exclude any Participant.
 - 7.1.3 Issue any other requests for information, proposals, or quotations, including requests that are similar to this one.
 - 7.1.4 Accept or reject any or all responses to the request.
- 7.2 This RFX may result in awards to more than one supplier based on the ability of supplier(s) to meet Lilly's needs described in this RFX.
- 7.3 Lilly will not review or evaluate generic materials submitted in response to its specific requirements in this RFX.
- 7.4 Lilly reserves the right to reject all proposals and to resubmit this RFX to the marketplace.
- 7.5 Lilly reserves the right to review throughout the supplier selection process any and all of Your documentation pertaining to products or services to be supplied to Lilly.

Section 8 Lilly's Confidential Information

- 8.1 In the course of the RFX and any subsequent contract negotiations if Participant is awarded the potential business, Participant may have access to Lilly's Confidential Information such as information regarding: 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 and cost; construction plans; sales, marketing, and advertising studies and plans; customer lists; computer information and software; special techniques unique to Lilly's business; information subject to a right of privacy; and information Lilly maintains under a system of protection against unauthorized access. The status of information as Confidential Information is not affected by the means of acquisition or disclosure. For example, Confidential Information may be acquired by written, oral,

or electronic communication; directly from the Lilly's Representative or independent contractor, or indirectly through one or more intermediaries; or by visual observation. Similarly, acquisition or disclosure of information may be either intentional or inadvertent without affecting its status as Confidential Information.

8.2 Participant will neither

- 8.2.1 disclose Lilly's Confidential Information except as authorized below or by Lilly in writing, nor
- 8.2.2 use Lilly's Confidential Information for any purpose other than responding to the relevant RFX or any subsequent contract negotiations if Participant is awarded the business.

8.3 Participant may disclose Lilly's Confidential Information:

- 8.3.1 To its Representatives who need to know the information for the purpose of responding to the RFX and who have contractual obligations that prohibit any disclosure and use of Lilly's Confidential Information prohibited by this Participation Agreement regardless of whether the person remains a Representative. Participant is responsible to Lilly for any unauthorized disclosure or use of Lilly's Confidential Information by Participant's Representatives.
- 8.3.2 To the extent compelled by applicable law, Participant will give Lilly reasonable advance notice of the disclosure and shall cooperate with Lilly to minimize or prevent such disclosure.
- 8.3.3 To its attorneys or accountants who have a professional obligation to maintain such information in confidence. Participant is responsible to Lilly for disclosure or use by any such persons of Lilly's Confidential Information or access to Lilly's Confidential Information not authorized by Lilly.

Section 9 Participant's Confidential Information

- 9.1 In the course of the request, Lilly may have access to Participant's Confidential Information, and will neither disclose Participant's Confidential Information or use it for any purpose other than for Lilly's analysis of Participant's responses to the RFX or during contractual negotiations.

Section 10 Lilly Third Party Provider Privacy Notice

- 10.1 By responding to an RFX or indicating an Intent to Bid (intent to respond) to a particular RFX in Lilly's eSourcing system and thereby accepting this Participation Agreement, Participant gives consent for the use and transfer of personal information, including name, signature, professional contact information, government identifiers and financial information, for the following purposes in accordance with the conditions provided in the Lilly Third Party Provider Privacy Notice.

Section 11 Choice of Law

- 11.1 This Agreement will be governed in all respects by the laws of Indiana, excluding its rules on conflict of law.

Section 12 Indemnification

You shall indemnify and hold harmless Lilly, its officers, directors, employees, and agents from and against all claims, liabilities, obligations, damage or expenses which resulted, directly or indirectly, from or in connection with any negligent act, error, or omission, or willful misconduct related to this RFX by You or any subcontractor of Yours or Your respective employees or agents.