

**TERMS AND
CONDITIONS OF
ELI LILLY AND
COMPANY AND LILLY
USA, LLC**

Updated March 2022

NOTICE FROM ELI LILLY AND COMPANY TO ITS SUPPLIERS

These terms, conditions, and instructions (“Terms”) shall be applicable to any purchase order and to all subsequent purchase orders received by you (“Seller”) from Eli Lilly and Company (“Buyer”) whether received by mail, by telephone, or by electronic means (each a “Purchase Order”), from the date of your receipt of these Terms until such time as you receive a revised edition of these Terms or a revised edition of these Terms is posted on <http://lilly.com/suppliers>. These Terms shall apply to all transactions between you and Buyer until such further notice.

Additional or different terms, conditions, or instructions applicable to a particular 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, conditions, and instructions with the exception of the Section entitled “ELECTRONIC TRANSACTIONS” below.

Despite anything to the contrary contained herein, if Seller and Buyer have executed an agreement (“Agreement”) which governs the purchase and sale of the goods, software or services in issue, the terms of such Agreement shall be controlling and shall take precedence over these Terms and any additional or different terms contained in any document generated by Seller.

PLEASE RETAIN THIS DOCUMENT IN YOUR COMPANY FILES FOR FUTURE REFERENCE

1. DEFINED TERMS:

- a. “Applicable Laws” means any statute, law, treaty, rule, code, ordinance, regulation, permit, interpretation, certificate, judgment, decree, injunction, writ, order, subpoena, or like action of a Governmental Authority that applies, as the context requires, to a Purchase Order or the performance of obligations or other activities related to a Purchase Order.
- b. “Buyer’s Confidential Information” means 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 a Governmental Authority; 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; trade secrets, and information Buyer maintains under a system of protection against unauthorized access.
- c. “Covered Recipient” means any individual or Teaching Hospital as defined and amended under the United States Open Payments Act, 42 C.F.R. Section 403.902. Covered recipient healthcare professionals include Doctor of Medicine, Doctor of Osteopathy, Doctor of Dentistry, Doctor of Dental Surgery, Doctor of Podiatry, Doctor of Optometry, Doctor of Chiropractic Medicine, Physician Assistants, Nurse Practitioners, Clinical Nurse Specialists, Certified Registered Nurse Anesthetists and Anesthesiologist Assistants, and Certified Nurse-Midwives. Teaching Hospital means hospitals that receive payment for Medicare direct graduate medical education, inpatient prospective payment system, indirect medical education, or psychiatric hospital indirect medical education programs during the last calendar year for which such information is available.
- d. “Deliverables” means the following: (i) for any order of goods, including software and any computer program, programming, modules, patches, upgrades, new versions and modifications thereto, Deliverables includes any goods or articles specified in Buyer’s order that Seller is obligated to furnish to Buyer; and (ii) for any order of services, Deliverables includes all services provided to Buyer, together with all articles, materials, goods, information, works of authorship, trademarks, artwork, drawings, text, specifications, calculations, reports, ideas, inventions, discoveries, processes, improvements, software, data, 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 the Purchase Order or derived from information or materials Seller has received from Buyer. For clarification, Deliverables also include any combination of the foregoing, including Software Services.
- e. “EDI” means electronic data interchange.
- f. “Existing Intellectual Capital” means any Intellectual Property that Seller invented, created, developed, or acquired outside the course of its performance under these Terms and without use of Buyer’s information or materials.
- g. “Governmental Authority” means (i) any international, regional, national, federal, state, or local government entity, authority, agency, instrumentality, court, tribunal, regulatory commission or other body, either foreign or domestic, whether legislative,

judicial, administrative or executive; and (ii) any arbitrator to whom a dispute has been presented under government rule or by agreement of the parties with an interest in such dispute.

- h. "Intellectual Property" means all inventions, original expressions of ideas embodied in a tangible form, copyrights, trademarks, trade secrets, information, know-how, and the like that are afforded, or may be afforded upon, action by a Governmental Authority, such as the U.S. Patent Office Intellectual Property Rights.
- i. "Intellectual Property Rights" means the property rights or quasi-property rights afforded by patents, copyrights, trademarks, or trade secrets; publicity rights, privacy rights, and moral rights.
- j. "Lilly Data" means all data or information in whatever form or medium that Seller receives from, or otherwise gains access to through, Buyer or as a result of these Terms, including, without limitation all data derived by Buyer, or by Seller pursuant to its provision of the Software Services, or originating from third parties and to which Buyer has received certain rights. In addition, Lilly Data shall be considered Buyer Confidential Information.
- k. "Personal Information" means any information as defined in Lilly's Supplier Privacy Standard as revised by Buyer from time to time and published at <https://www.lilly.com/suppliers/new-and-existing-suppliers/supplier-notifications> or otherwise made available to Seller.
- l. "Records" means any information of any type (including text, data, code, images, sound, source codes, computer programs, software, databases, or the like) that is used, created, or obtained in the performance of any Purchase Order, inscribed on tangible medium or stored in an electronic or other medium in a perceivable form.
- m. "Seller" means also Supplier or Vendor and the terms may be used interchangeably throughout these Terms, any Purchase Orders or Agreements.
- n. "Software Service" means any software-as-a-service (SaaS) or other Deliverables that involve Seller providing application or software functionality as a hosted solution.
- o. "Vendor" means Supplier for purposes of the Supplier Privacy Standard as revised by Buyer from time to time and published at <https://www.lilly.com/suppliers/new-and-existing-suppliers/supplier-notifications> or otherwise made available to Seller.

2. APPLICABLE TERMS AND CONDITIONS: Offer and acceptance of any Purchase Order issued by Buyer is expressly limited to these terms and the applicable 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 Buyer's 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, despite such additional or different terms. Seller's shipment of goods or commencement of services in response to Buyer's order shall constitute acceptance of 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.

3. ELECTRONIC TRANSACTIONS:

- a. The only acceptable methods of Purchase Order dissemination and invoicing is via Buyer's web invoicing system or via web enabled EDI. Any exceptions must be approved by Buyer's Director 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:
 - (i) 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
 - (ii) the admissibility of copies of EDI records under the business records exception to the hearsay rule, the best evidence rule or 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.

4. PRICE AND PAYMENT TERMS: 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; (b) the price last paid by Buyer to Seller; or (c) the prevailing market price, unless a higher price is approved in writing by an authorized representative of Buyer's procurement department. Lilly issues payments on a weekly basis. All invoices which have reached their payment term maturity will be accumulated and paid in the next weekly payment. Lilly's standard payment terms are net 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. Supplier may offer a discount on individual invoices at the time of invoice entry to the SAP Ariba system; those discounted invoices will be paid on the actual due date. Due dates and cash discounts are computed from the date an accurate invoice is received in Buyer's Accounts Payable Department. Invoices submitted through SAP Ariba will be the document of record for tax purposes. Buyer may return improper invoices for correction without loss of discount. In case of disputes, doubt concerning quality, or where rejections occur, Buyer may defer payment without penalty or loss of discount.

5. **MODIFICATION:** Modification, rescission, or amendment of Buyer's order or the contract of sale resulting from its acceptance shall be ineffective unless approved in writing by an authorized representative of Buyer's procurement department.

INSPECTION: All Deliverables furnished pursuant to a Purchase Order shall be subject to Buyer's inspection and approval, including acceptance testing by Buyer to verify that the Deliverables satisfy all requirements conveyed by Buyer to Seller, including any specifications or documentation relating to the Deliverables. If Buyer discovers a non-conformity within ninety (90) days following delivery of the Deliverables and Buyer notifies Seller of the non-conformity, notwithstanding prior receipt and payment therefore, 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 Deliverables or services attributable to or affected by the non-conforming Deliverables, in which case Buyer shall return such non-conforming Deliverables 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, TERMINATION:** All Deliverables supplied under Buyer's order shall be shipped by Seller in full compliance with packaging, labeling, shipping, and documentation requirements, including requirements concerning hazardous materials, substances, and waste of all state, local, national, or international governmental agencies or authorities regulating any segments or modes of transportation employed to effect delivery of such articles to Buyer, and all hazardous materials, substances, and waste shall be packaged, marked, labeled and shipped in accordance with all 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 terminate all or any portion of any Purchase Order without liability if delivery is not made within the time stated in the Purchase Order.

7. **GENERAL REPRESENTATIONS AND WARRANTIES:** Seller represents and warrants:

- a. That all Deliverables supplied under Buyer's order are free from defects, of merchantable quality, and in accordance with Buyer's specifications;
- b. That Deliverables do not and will not infringe the 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 Deliverable 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 Deliverable independent of Seller; or (iii) the combination, operation or use of the Deliverable with any product, data, apparatus, or business method that Seller did not provide and could not reasonably anticipate. In addition, with respect to services, all Deliverables produced under the Purchase Order shall be of original development and all Seller property shall be of original development or licensable by Seller;
- c. That it has enforceable written agreements with all of its employees and subcontractors assigning to Seller ownership of all Intellectual Property Rights created in the course of their employment or engagement, and obligating such employees upon terms and conditions no less restrictive than these Terms, not to disclose any proprietary rights or information learned or acquired during the course of such employment or engagement, including without limitation, any Deliverable and any other information.;
- d. That in the performance of its obligations under a Purchase Order, Seller shall comply with all Applicable Laws, applicable Lilly policies and professional or good practice standards or codes applicable to the nature of the Services provided, including but not limited to:
 - i. Applicable provisions of the Anti-Bribery Commitments for Lilly Procurement Contracts as revised by Buyer from time to time and published at <https://www.lilly.com/suppliers/new-and-existing-suppliers/supplier-notifications> or otherwise made available to Seller;
 - ii. Applicable provisions of Buyer's Supplier Privacy Standard as revised by Buyer from time to time and published at <https://www.lilly.com/suppliers/new-and-existing-suppliers/supplier-notifications> or otherwise made available to Seller.
 - iii. Buyer's Information Security Standard as revised by Buyer from time to time and published at <https://www.lilly.com/suppliers/new-and-existing-suppliers/supplier-notifications> or otherwise made available to Seller;
 - iv. Any applicable training as reasonably requested by Buyer, including any training required by Applicable Law. Seller shall maintain accurate and current Records of all training activities and retain such Records in accordance with the terms hereunder;
 - v. Applicable clauses set forth in the United States Federal Acquisition Regulation ("FAR") FAR 52.244-6(c)(1) as set forth at <https://www.lilly.com/suppliers/new-and-existing-suppliers/supplier-notifications/legal-posts> and such other provisions as may be required by Applicable Law to allow the sale of products to the United States Government from time to time by Buyer; and
 - vi. Paragraphs (1) through (3) of 29 C.F.R. Part 471, Appendix A to Subpart A regarding the posting of certain notices pertaining to employee rights under the National Labor Relations Act and that no Deliverable supplied under Buyer's order is produced in violation of the Fair Labor Standards Act of 1938, as amended, and that the price of any article supplied under Buyer's order does not violate any provision of the Sherman Act or Robinson-Patman Act, as amended.
- e. That no Deliverable supplied under Buyer's order and subject to the Federal Food, Drug, and Cosmetic Act, as amended (for purposes of this representation and warranty, the "Act"), is adulterated within the meaning of the Act or is an article which may not, under the provisions of Section 301, 404 or 505 of the Act, be introduced interstate commerce;

- f. That no Deliverable supplied under Buyer's order is produced in violation of the Generic Drug Enforcement Act of 1992, as amended (for purposes of this representation and warranty, the "Act"), that Seller is not debarred and that Seller has not and will not use in any capacity in connection with the filling of this order the services of any individual or person (as defined in the Act) debarred by the United States Food and Drug Administration under the provisions of the Act. If at any time this warranty is no longer accurate, Seller shall immediately notify Buyer of such changed circumstances;
 - g. That Seller and its subcontractors are not on any list of restricted entities, persons, or organizations published by any member state of the European Union, the United States of America government, the United Nations, or other Governmental Authority, including the U.S. Treasury Department's List of Specially Designated Nationals and Blocked Persons, Sectoral Sanctions Identifications List, and Foreign Sanctions Evaders List, the U.S. Commerce Department's Entity List, Denied Persons List, and Unverified List, the U.S. State Department's nonproliferation lists, and the EU's Consolidated List of Designated Persons, (collectively, the "Sanctions Lists"). Seller represents and warrants that it and its subcontractors are not owned or controlled in the aggregate at 50% or greater interest, directly or indirectly by a person or entity which is included on such Sanctions Lists.
 - h. Supplier agrees to comply with all applicable trade sanctions and export control laws and regulations, including where applicable the U.S. trade sanctions administered by the U.S. Treasury Department's Office of Foreign Assets Control (31 C.F.R. Part 501 et seq.), the U.S. Export Administration Regulations (15 C.F.R. Part 734 et seq.), and European Union trade sanctions and export laws (including without limitation Council Regulation (EC) No. 428/2009 (as amended)).
 - i. Supplier represents and warrants that neither Supplier, its directors, executive officers, agents, shareholders nor any person having a controlling interest in Supplier are (i) a person targeted by trade or financial sanctions under the laws and regulations of the United Nations, the United States, the European Union and its Member States, the United Kingdom or any other jurisdiction that is applicable to the Rights and Services to be provided under this Agreement, including but not limited to persons designated on the U.S. Department of the Treasury, Office of Foreign Assets Control's List of Specially Designated Nationals and Other Blocked Persons and Consolidated Sanctions List, the U.S. State Department's Non-proliferation Sanctions Lists, the UN Financial Sanctions Lists, the EU's Consolidated List of Persons, Groups and Entities Subject to EU Financial Sanctions, and the UK HM Treasury Consolidated Lists of Financial Sanctions Targets; (ii) incorporated or headquartered in, or organized under the laws of, a territory subject to comprehensive U.S. sanctions (each, a "Sanctioned Territory") (currently, Cuba, Iran, Crimea, North Korea and Syria, but subject to change at any time) or (iii) directly or indirectly owned or controlled by such persons (together "Restricted Person"). Supplier further represents and warrants that Supplier shall notify Lilly in writing immediately if Supplier or any of its directors, executive officers, agents, shareholders or any person having a controlling interest in Supplier becomes a Restricted Person or if Supplier becomes directly or indirectly owned or controlled by one or more Restricted Persons.
 - j. That at any time, and without notice to Seller, Buyer may disclose information relating to a possible violation of law by Seller, including the compensation provisions, to a Government Authority as is reasonably necessary in connection with Buyer's compliance program;
 - k. That Seller understands and acknowledges that its requirements under this Section are in addition to all of Seller's other obligations hereunder; and
 - l. That Seller agrees to defend, indemnify, and hold harmless Buyer against all liability, costs, expenses (including attorney fees), damages and judgements occasioned by or resulting from breach of any of the foregoing warranties.
- 8. SAFETY & SECURITY:** Seller's representative(s) may be granted a security identification badge and allowed unescorted access to Buyer's facilities in Buyer's sole discretion. As a condition to obtaining such unescorted access, Seller will comply with, and will cause its representatives, 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, without limitation, measures such as safety orientation programs, substance abuse screening, training, background check requirements, restricting access through the use of identification badges and passwords, and any additional policies or procedures provided by Buyer. Buyer retains its right to restrict or refuse any person (including Seller, its affiliates, subcontractors, and their respective representatives) access to Buyer's facilities, computers, or other information systems at any time. Seller will promptly notify Buyer of any violation of such policies and procedures by any of the persons listed above. In particular, but not in limitation of the preceding, Buyer may restrict or refuse access (including access to applicable computer or other information systems as identified by Buyer) to any individual who does not do any of the following to Buyer's satisfaction:
- i. and satisfy Global Screening Standards which include background checks and drug screens (and can be found in BeeLine); and
 - ii. acknowledge in writing a personal obligation to protect Buyer's Confidential Information, substantially equivalent to what is contained in Buyer's Confidential Information section of these Terms.
- Seller will, to the extent permitted by Applicable Law, make available such documentation as Buyer reasonably requires within five (5) days of Buyer's request to demonstrate Seller's compliance with the requirements of this section.
- 9. REPORTING ADVERSE EVENTS AND PRODUCT COMPLAINTS:** If during the course of performing services under these Terms, a Purchase Order or a related Agreement, Seller, Seller's representatives, or Seller's subcontractors become aware of an adverse event or product complaint, Seller will report such information to Buyer within one business day of awareness by calling The Lilly Answers Center at 1-800-LillyRx or the appropriate local Buyer affiliate. This reporting obligation does not apply to information that Seller's representatives or subcontractors receive directly from Buyer or from a clinical investigator conducting a clinical trial on behalf of Buyer. For purposes of this section, an adverse event ("Adverse Event") means (i) any undesirable medical occurrence in a patient or clinical investigation subject administered a pharmaceutical product (drug or device), including side effects already listed in the package insert or (ii) any observation in animals or humans whether or not considered to be product related that is unfavorable and unintended and that occurs after any use of an Elanco product (off-label and on-label). Included are

events related to suspected lack of expected efficacy or noxious reaction in humans after being exposed to the product. A product complaint means a customer's written, oral, or electronic communication that alleges deficiencies related to the safety, identity, quality, , , durability, reliability, , effectiveness, or performance of a distributed drug product, drug/device combination product, medical device, animal health premix, active pharmaceutical ingredient, process intermediate, or fermentation product.

10. **NONDISCLOSURE:** Except to the extent provided in the section entitled "Publicity", Seller shall not disclose any information concerning Buyer's order or the contract of sale resulting from its acceptance, including its existence, without the prior written consent of Buyer.
11. **USE OF COVERED RECIPIENTS AND REPORTING:** It is understood and presumed by nature of this transaction that no United States or Puerto Rico Covered Recipient will be used in providing services hereunder and that no Puerto Rico licensed Covered Recipient holds an ownership interest in Seller where Seller is a privately held company. Seller will notify Buyer's procurement department immediately if this understanding is incorrect as Lilly may be required to report any payment/transfer of value made pursuant to the federal open payments law.
12. **CONFIDENTIALITY:** Buyer Confidential Information is and shall remain the exclusive property of Buyer or its affiliates, as applicable and shall not be commercially exploited by or on behalf of Seller, its employees or agents. 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 and their respective representatives 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 have contractual obligations with Seller 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, subject to any document retention requirement set forth in these Terms. 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.

13. **PUBLICITY:** 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 Applicable Law or allowed in this Section. To the extent allowed by Applicable Law, Seller shall provide copies of any proposed disclosure for 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 Deliverable 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.
14. **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 but not limited to 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 any 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 Deliverable, both alternatives being at Seller's expense.
 - b. Recover (or withhold) from Seller the portion of Seller's compensation attributable to the infringing 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.
15. **LIABILITY 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, including contractual and products/completed operations, with minimum limits of at least \$1,000,000 per occurrence and \$3,000,000 aggregate. All such insurance shall be primary and not contributory with regard to any other available insurance to Buyer. Seller represents and warrants that it shall promptly file all claims made under this Purchase Order with its insurance carriers.
 16. **FEDERAL EEO AND AFFIRMATIVE ACTION LAW:** Buyer's order is subject to and incorporates by reference the provisions of the EEO clause in Section 202 of Executive Order 11246, 41 C.F.R. 60-250 and 41 C.F.R. 60-741, all as amended.

Buyer and Seller will, if applicable, abide by the requirements of 41 CFR 60-1.4, 60-1-7, 60-1.35(c), 60-300.5(a) and 60-741.5(a) and 29 CFR part 471, Appendix A to Subpart A, as updated from time to time. Among other requirements, these regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.

17. **ASSIGNMENT:** To the extent allowed by Applicable Law, Seller shall not in any manner delegate its duty of performance or assign its rights or obligations under Buyer's order or the contract of sale resulting from its acceptance 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 this Purchase Order, including, but not limited to, any software purchased under this Purchase Order.
20. **UN CONVENTION:** Despite anything in these Terms, the United Nations Convention on Contracts for the International Sale of Goods shall have no application to, and shall be of no force and effect with respect to, these Terms or any Purchase Order under these Terms.
21. **RECORDS AND AUDITS:**
 - a. At its own expense, Seller will create and maintain all Records: (i) required by these Terms, a Purchase Order, or under any Applicable Law that relate to Seller's performance under a Purchase Order; (ii) sufficient to demonstrate that any and all amounts invoiced to Buyer under a 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; (iv) sufficient to show payments to third parties or Governmental Authorities (if any) for the provision of any Services under these Terms; (v) sufficient to document any applicable training required under a Purchase Order; (vi) sufficient to demonstrate compliance with any applicable health, safety and environmental standards based on the Pharmaceutical Industry Principles for Responsible Supply Chain Management; and (vii) sufficient to document any misappropriation of Lilly information or data. Seller will allow Buyer to inspect (and upon request, Seller will furnish copies of) Records, including without limitation, electronic databases, spreadsheets, programs or the like that generated the Record, that Seller is required to create or maintain under these Terms.
 - b. Seller will maintain all of the Records listed above for the longest of the following retention periods that applies: (i) any period prescribed by Applicable Law or stated expressly in a Purchase Order; (ii) for Records related to invoices, for five (5) years after payment of the invoice by Buyer; (iii) for Records related to reports submitted to Buyer, for five (5) years after the report is submitted; (iv) for Records needed to meet any applicable regulatory requirements, for fifteen (15) years commencing on the conclusion or termination of the Purchase Order; and (v) for all Records not addressed by one of the above, for five (5) years after the term of the Purchase Order.
 - c. At reasonable times and with reasonable advance notice and subject to compliance with all applicable confidentiality provisions herein, Buyer may enter and conduct an audit at any premises where Records are maintained or services are performed as Buyer deems necessary to accomplish the evaluations and verifications described in this Section. Due diligence assessments and on-going monitoring activities do not constitute an audit. 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.
 - d. Buyer, its employees, or designees may exercise Buyer's rights of entrance and inspection under this section. Employees and designees shall be held to the same standards of confidentiality provided in these Terms through the independent contractual obligations he/she has with Buyer. Examples of persons or designees that Buyer may designate include Buyer's independent auditors and representatives of any state, local or foreign government entity, authority, agency, court, or commission and any applicable arbitrator having jurisdiction over Buyer or its activities related to a Purchase Order.
 - e. 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.
 - f. Seller shall provide Buyer with immediate notice of any Governmental Authority's review, audit or inspection of its facilities, processes, or products that might relate to the Deliverables, or products furnished to Buyer under these Terms pursuant to a Purchase Order.

- g. At Buyer's request, a representative of Seller shall accompany Buyer to meet with representatives of the United States Food and Drug Administration, United States Environmental Protection Agency, or similar domestic or foreign regulatory agencies (collectively "Regulatory Authority") to explain or discuss any and all aspects of the Deliverables. Such visit to Regulatory Authorities shall be arranged at times mutually agreeable to Buyer and Seller. All reasonable travel expenses incurred by Seller in connection with such visits shall be reimbursed by Buyer.

22. CUSTOMS AND IMPORTS:

- a. **Importer of Record.** The parties agree that any Deliverables, or other goods or materials, shipped in conjunction with the performance of their respective obligations under a Purchase Order shall be imported by the receiver of the shipment. The receiver shall act as the importer of record and shall comply with all local customs and other import requirements, including (i) selection of customhouse brokers; (ii) obtaining and filing all necessary import documentation, authorizations, and declarations; and (iii) payment of all fees for customhouse brokerage, customs duties and fees, and all other import-related fees or expenses
- b. **Mutual Cooperation.** Each party shall timely provide information or assistance as is reasonably requested by the other party to complete its obligations under this section, including providing information necessary to facilitate an import which is not reasonably ascertainable by the importing party through other means.
- c. **Express Consignment Couriers.** When shipment by express consignment courier (e.g., FedEx, DHL Express, etc.) is preferred, each party shall ship the goods or other materials at its own expense, using an express consignment courier ("Courier") agreed to by the other party. The shipping party will provide to the Courier for each article in the shipment documentation, as applicable, that includes a (i) detailed descriptions; (ii) six-digit tariff code from the Harmonized Tariff Schedule; (iii) statement of intended use; (iv) fair value; (v) country of origin; (vi) name and address of manufacturer if different than shipper; (vii) contact information for both sender and receiver of the shipment; and (viii) other information or documentation as required by the Courier to effect export and import clearances and enable transportation to the receiving party's designated facility.
- d. **Trade Security Programs.**
 - i. **Supply Chain Security.** To secure the supply chain for all articles shipped to its facilities, Buyer participates in various supply chain security programs such as the U.S. Customs-Trade Partnership Against Terrorism (C-TPAT) program and the European Union Authorised Economic Operator (AEO) program. Seller will cooperate with Buyer's measures to implement supply chain security programs by, for example, completing and updating questionnaires that Buyer uses to assess supplier security practices, informing Buyer of any supply chain security breaches concerning shipments to Buyer, assisting Buyer in assessing and evaluating Seller's security practices, improving Seller's security practices when necessary to satisfy supply chain security program requirements, and timely providing any security-related information required by Buyer for import, export, or transportation purposes.
 - ii. **Advance Shipping and Import Notification.** Seller agrees to timely provide Buyer or Buyer's agent with all information necessary for Buyer to submit advance import information required by customs authorities. Seller's failure to provide the required information in a timely manner could preclude importation or shipments to Buyer, and potentially result in increased costs or claims for compensation under a Purchase Order.

23. EXPORTS: Seller will not export, re-export or transfer any goods, technology, or software, or cause the export, re-export, or transfer of any goods, technology, or software, with Buyer listed as the principal party in interest or exporter. Seller will not, and will ensure that its agents, subcontractors and others acting on its behalf, will not, export, re-export or transfer any such goods, technology, or software if doing so would cause Buyer, Seller, or any other person to violate the Export Administration Regulations (15 C.F.R. part 730 *et seq.*), the U.S. Foreign Trade Regulations (15 C.F.R. Part 30), any trade or economic sanction regulations (including those administered by the U.S. Treasury Department's Office of Foreign Assets Control (31 C.F.R. Ch.V), or any existing or future Applicable Laws related to export controls or sanctions.

24. TAXES. Each party will be responsible for its own taxes, including property taxes on property it owns or leases, income taxes on its business and, any other taxes incurred by such party in connection with its business and with performing its obligations hereunder. Buyer will be responsible for any transaction taxes properly collectible from Buyer under Applicable Law. Seller will be responsible for payment of any transaction taxes that are, under Applicable Law, properly borne by Seller; including, but not limited to all export and import taxes. The calculation of taxes shall not include, and Buyer shall not pay, any taxes that are related to intra-corporate transfers or intermediate supplies of the services between Seller and its affiliates or between Seller's affiliates and related entities.

25. REIMBURSABLE TRAVEL AND EXPENSES: In the event that travel and other out-of-pocket expenses are included in an approved Purchase Order, Buyer will reimburse Seller only for Seller's actual, reasonable, proper, out-of-pocket expenses, with no additional overhead, profit margin, administrative charges, handling fees, or other markup, directly attributable to the Purchase Order in accordance with Buyer's Travel Policy. Buyer shall provide Seller with a copy of Buyer's Travel Policy upon request.

IF THIS ORDER INVOLVES SOFTWARE OR INFORMATION TECHNOLOGY HARDWARE OR SERVICES, THE FOLLOWING TERMS SHALL APPLY IN ADDITION TO THE TERMS SET OUT ABOVE:

26. 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, including software made available as a Software Service (the "License"). Unless specified otherwise on the applicable Purchase Order, the License shall be an enterprise license for all applicable CPUs and access points, and available for use by Buyer, its affiliated companies, third party 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 in the applicable 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 recompilation of the software. Seller and Buyer expressly agree that any software shrink-wrap and click-through software licensing agreements or other such terms shall not apply to any software purchased or licensed under any Purchase Order unless Buyer expressly agrees in writing to such shrink-wrap or click-through software licensing agreement. Seller retains all right, title, and interest in the software, including the software utilized to provide the Software Services, and in all copies, improvements, enhancements, modifications, and derivative works of such software including, without limitation, all rights to patent, copyright, trade secret, and trademark, except and to the extent such improvements, enhancements, modifications, or derivative works use, reference, or incorporate Buyer Confidential Information, Lilly Data, or Buyer Intellectual Property. Subject to the foregoing, no title to or ownership of any such software, or rights in patents, copyright, trade secret, or other proprietary right in such software is conveyed or transferred to Buyer by virtue of these Terms, and these Terms shall not be construed as a sale of any rights in such software or any copies or portions thereof.

27. USE OF SOFTWARE, SOFTWARE SERVICES, AND DOCUMENTATION:

- a. Buyer may, as part of the License, make additional copies of the software (for on premise software) and documentation to support the licensed software, Software Services, and documentation. Buyer may also make backup and archival copies of the software (for on premise software) and documentation. Unless otherwise provided on the applicable Purchase Order, Buyer shall have the right to use the software and Software Services on or in connection with any CPU or access point that Buyer utilizes to fulfill its needs. Buyer reserves the right to use the software and Software Services at one or more sites and to transfer such software to, or access the Software Services from, 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 Software Services and to operate and use the software and Software Services 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 and Software Services 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 such software and Software Services shall not be restricted to any particular purpose or function.
- c. The License granted herein or the Purchase Order shall commence upon execution of the applicable Purchase Order.

28. INFORMATION TECHNOLOGY REPRESENTATIONS AND WARRANTIES: Regarding software, Software Services, or IT hardware ("IT Products"):

- a. Seller represents and warrants that at delivery and throughout the twelve (12) month period following receipt of the on-premise software and IT hardware IT Products (or any update thereto) by Buyer, and for the duration of the term of the Software Services (the "Warranty Period") the IT 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 IT Products in accordance with instructions included in the documentation provided to Buyer by Seller; or (b) the modification of the IT 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. 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.
- c. Seller represents and warrants that it shall at all times document the operation of the IT Products in a manner consistent with the best practices of the software development industry, and such documentation shall accurately reflect the operation of the IT Products and enable a person reasonably skilled in computer programming and in possession of the IT Products source code to use and maintain the IT Products fully and completely.
- d. Seller represents and warrants that any equipment delivered hereunder shall be delivered to Buyer with the full warranty granted by the original manufacturer of the equipment still effective. Notice regarding warranty claims raised by Buyer due to defects and/or non-conformities in the equipment or in the operation of the equipment shall be given only to Seller, and upon receipt of such a notice, Seller shall take the steps necessary to effect repair of the equipment.
- 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 IT 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 the Seller's provision of maintenance services. Seller warrants and represents that

maintenance services for an IT Product shall be available from Seller for the greater of two (2) years from the Acceptance Date of the IT Product by Buyer or the current version plus the one (1) prior versions. Seller shall provide to Buyer as part of maintenance services, Updates and Upgrades to the IT Product at no additional cost to Buyer.

- f. The occurrence in or use by the IT Product supplied by Seller of any 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 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.
- g. Seller warrants that: (i) unless authorized in writing by Buyer; or (ii) necessary to perform valid duties hereunder, any IT Products provided to Buyer by Seller for use by Seller or Buyer shall: (a) contain no hidden files; (b) not replicate, transmit or activate themselves 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 ("Illicit Code"). Provided and to the extent 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 such Purchase Order, and no cure period shall apply. In addition to any other remedies available to it under this Purchase Order, Buyer reserves the right to pursue any civil and/or criminal penalties available to it against the Seller.

29. LICENSE OR MAINTENANCE TERMINATION:

- a. In the event of a material breach by Buyer of any of its obligations under the applicable Purchase Order, Seller may terminate the licenses 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 30(a), Buyer shall discontinue further use of the terminated Licenses. For on-premise software, 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 the applicable Purchase Order, these Terms, or a maintenance agreement, Buyer may terminate either 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 30(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.
- c. The other provisions of the Purchase Order and these Terms shall survive termination of any License.

30. 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 ("UCITA") shall not be applicable to this Purchase Order. Furthermore, both Seller and Buyer waive any and all rights arising from any such law.

31. DATA: Buyer is the exclusive owner of all Intellectual Property Rights to Buyer Confidential Information, Lilly Data, and Buyer Intellectual Property. Seller agrees that it shall not use or incorporate Buyer Confidential Information, Lilly Data, or Buyer Intellectual Property (and/or all tangible and intangible embodiments or derivative works thereof) into any of Seller's other products or services or use any such materials in connection with providing any services other than as to Buyer

IF THIS ORDER INVOLVES POVISION OF SOFTWARE SERVICES, THE FOLLOWING TERMS SHALL APPLY IN ADDITION TO THE TERMS SET OUT ABOVE:

32. THIRD PARTY HOSTS: The subcontractor requirements of Section 35, including the consent requirements, shall also apply to any third parties Seller may desire to utilize to host the Software Services (a "Third Party Host"). Seller shall ensure that Buyer has the right to inspect the security and privacy policies and procedures of each Third Party Host. Seller shall ensure that any contract with a Third Party Host remains in effect at all times unless the hosting of the Software Service is to be transitioned to another Third Party Host, in which case Seller shall provide prompt (but at least sixty

(60 days') written notice to Buyer of such transition and Seller shall use commercially reasonable efforts to avoid any interruption to the Software Service while transitioning the Third Party Hosts. Seller represents and warrants that it will be responsible for any Third Party Host's compliance with these Terms, as well as Buyer's Supplier Privacy Standard and Information Security Standard in these Terms. Unless otherwise agreed upon in writing, the Third Party Host's operations and facilities (as they relate to hosting the Lilly Data) shall at all times remain within the continental United States. For the avoidance of doubt, the foregoing sentence shall not prohibit the Third Party Host from maintaining facilities or operations outside of the United States, but no operation related to the Software Service to be provided to Buyer shall be conducted outside of the United States. Notwithstanding the foregoing, Buyer acknowledges that the Software Services may be hosted and delivered from a data center operated by Amazon or another provider that is subject to industry-standard external auditing. Such data center will maintain a written information security program incorporating reasonable administrative, physical and technical safeguards, and compliant with all applicable privacy and data security laws and regulations, to protect any non-public Personal Information stored through the Software Services from unauthorized disclosure, use, access, alteration or loss. In the event that Seller wishes to change Third Party Hosts, Seller shall provide sixty (60) days' advanced notice of such change. If Buyer determines that the new Third Party Host does not meet its security requirements, it shall have the right, within thirty (30) days of notice by Seller of its intent to change Third Party Hosts, to terminate any applicable Purchase Order and, upon termination, receive a prorated refund for any Software Services paid for but unused.

33. **AVAILABILITY:** Seller shall host, provide, and make the Software Service available via a secure web portal hosted by Seller. Seller shall use its best efforts to ensure that the Software Service is available to Lilly, with full functionality, 24 hours per day, 7 days per week. Failure to meet these availability requirements shall constitute a material breach of these Terms.

**ADDITIONAL TERMS AND CONDITIONS APPLICABLE TO
EQUIPMENT PURCHASES BY ELI LILLY AND COMPANY**

**NOTICE FROM ELI BUYER AND
COMPANY TO ITS SELLERS**

These additional terms and conditions applicable to equipment purchases ("Additional Equipment Terms") shall be applicable to the extent specified in a purchase order received by you ("Seller") from Eli Lilly and Company ("Buyer") whether received by mail, by telephone, or by electronic means (each a "Purchase Order"), from the date of Seller's receipt of these Additional Equipment Terms until such time as Seller receives a revised edition of these Additional Equipment Terms. Unless specified to the contrary in the applicable Purchase Order, these Additional Equipment Terms are augmented by, and hereby incorporate by reference, the most recent version of the Terms and Conditions of Eli Lilly and Company ("Buyer's Standard Terms") applicable to the place of the project, a revised edition of which is available upon request to Buyer or which may be posted from time to time at <https://www.Buyer.com/Sellers/accounts-payable/payments>; provided, however, that in the event of a conflict, these Additional Equipment Terms shall take priority. If Seller and Buyer have executed an agreement ("Agreement") which governs the purchase and sale of the equipment at issue, the terms of such Agreement shall take priority over these Additional Equipment Terms.

**PLEASE RETAIN THIS DOCUMENT IN YOUR COMPANY
FILES FOR FUTURE REFERENCE**

1. **SELLER'S TERMS:** Any terms and conditions of Seller accompanying Seller's proposal shall not apply to this purchase, except to the extent specifically incorporated within the Purchase Order; provided, however, that in the event of a conflict, these Additional Equipment Terms and Buyer's Standard Terms shall take priority over such terms.
2. **ADDITIONAL DEFINITIONS:** In addition to the definitions in Buyer's Standard Terms, the following additional definitions shall apply:
 - a. **"Consumable"** means a duplicate part, component or sub-assembly of the Equipment to replace one expected to require replacement sooner than the end of the useful life of the Product;
 - b. **"Equipment"** means the equipment specified in the applicable Purchase Order, including all related Deliverables, Services and/or goods.
 - c. **"Force Majeure Event"** means an event that a party could not reasonably control, could not reasonably anticipate when the obligation was undertaken, and could not avoid through the exercise of due diligence, including, without limitation, fire, pandemic, epidemic, act of God, war or other violence, or any law, order or requirement of any governmental agency or authority. An event that merely increases the cost or difficulty of providing the Equipment shall not alone constitute a Force Majeure Event.
 - d. **"Spare"** means a duplicate part, component or sub-assembly of the Equipment to replace one which has failed prematurely or exceeded the period of time for which it was intended to be operational or functional;
3. **VARIATIONS TO TERMS, SCOPE AND SCHEDULE**
 - a. **No variations unless agreed in writing.** No variation of the scope, schedule, place of manufacture of the Equipment, these Additional

Equipment Terms, or any other material item in the Purchase Order, shall be applicable unless agreed in writing by Buyer.

- b. **Process for implementing changes.** Buyer may at any time direct changes to the quantities, design, drawings and/or schedule that the Purchase Order requires, subject to the right of Buyer or Seller to request an appropriate adjustment to compensation and/or schedule to the extent appropriate. If such change causes an increase in the cost of the Equipment, necessitates an extension of the schedule or otherwise affects Seller's ability to fulfill the Purchase Order, then Seller shall give written notice to Buyer seeking an equitable adjustment as soon as practicable but in no event later than 14 days following receipt of a change request from Buyer or when the change first becomes known, whichever is earlier. Buyer will accept, amend or reject Seller's proposed adjustment within a reasonable time. Seller's failure to give such notice shall be deemed a waiver of its right to request increased compensation or an extension of the schedule. In the event the parties cannot agree upon a compensation or schedule adjustment, Buyer's proposed adjustment or decision not to make an adjustment, if any, shall apply, subject to the right of Seller to seek dispute resolution to the extent otherwise authorized. In no event will Seller have the right to suspend its work under the Purchase Order due to an inability to agree on a change or otherwise.
- c. **Excused delays.** A party will be excused from performing its obligations under the Purchase Order to the extent its performance is delayed or prevented by the other party or a Force Majeure Event. Under no circumstances shall any event to the extent caused or contributed to by the negligence of an affected party or its suppliers be a Force Majeure Event for such party. To be excused, the party claiming a delay caused by the other party or a Force Majeure Event must (i) as soon as possible, but in any event within three (3) business days, notify the other that a delay caused by the other party or a Force Majeure Event has occurred and its anticipated effect on performance, including its expected duration, (ii) exercise due diligence to avoid, remove or overcome the delay and (iii) recommence performance as soon as possible.

4. INSPECTION AND TESTING OF EQUIPMENT

- a. **Factory acceptance testing.** Prior to shipping the Seller shall undertake a Factory Acceptance Test (FAT) of all Equipment at the premises of Seller or other manufacturer and shall submit a report of the results of the FAT to Buyer for its approval.
 - i. The Seller's report must establish the sufficient performance, precision and reliability of the Equipment for its intended purpose.
 - ii. The FAT may be witnessed by Buyer or such other person it may nominate to act on its behalf. The Seller shall notify Buyer twenty (20) days before the FAT to enable Buyer to appoint its representative(s) in sufficient time should Buyer decide to be present.
 - iii. In addition to observing the FAT, Buyer or such other person it may nominate to act on its behalf may, with advance notice, conduct its own inspection and/or testing of the Equipment at the premises of Seller or other manufacturer either in conjunction with the FAT or otherwise. If Buyer conducts its own inspection and/or testing, Seller shall make available at no additional cost the necessary access and resources.
 - iv. Upon Buyer's request, Seller shall supply documentary confirmation of the origin and quality of the materials and components used in the Equipment.
 - v. Any participation by Buyer in the FAT and/or any inspection and/or testing by Buyer (or Buyer's decision not to participate in the FAT and/or conduct its own inspection and/or testing) shall not in any way affect the Seller's warranties or reduce or relieve Seller of its obligations under the Purchase Order or constitute a waiver of any of Buyer's rights.
- b. **Inspection and/or testing upon delivery.** Upon the delivery of the Equipment or any part of it at its final destination Buyer shall be entitled to inspect and/or test, and to accept, reject or request adjustments to such Equipment or any part of it based upon what it finds. Buyer shall not be deemed to have accepted any Equipment until such inspection has occurred, notwithstanding any prior acknowledgement of receipt or prior payment. Buyer shall be entitled to return any rejected Equipment to the Seller at the Seller's cost. Breakages or damaged packages will not be accepted by Buyer. Buyer's inspection and/or testing upon delivery (or Buyer's decision not to conduct such inspection and/or testing) shall not in any way affect the Seller's warranties or reduce or relieve Seller of its obligations under the Purchase Order or constitute a waiver of any of Buyer's rights. Buyer may reject Goods which are not in accordance with the Agreement.
- c. **Government-required inspections and testing.** If required by any governmental authority, law or regulation, Seller shall, at its own cost, carry out its own testing of the Equipment.
- d. **Site acceptance testing.** The Seller shall undertake a Site Acceptance Test (SAT) to verify the performance of the Equipment in the plant and shall submit a report of the results of the SAT to Buyer for its approval.
 - i. The Seller's report must establish the sufficient performance, precision and reliability of the Equipment for its intended purpose.
 - ii. The SAT may be witnessed by Buyer or such other person it may nominate to act on its behalf. The Seller shall notify Buyer twenty (20) days before the SAT to enable Buyer to appoint its representative(s) in sufficient time should Buyer decide to be present.
 - iii. In addition to observing the SAT, Buyer or such other person it may nominate to act on its behalf may, with advance notice, conduct its own inspection and/or testing of the Equipment either in conjunction with the SAT or otherwise.

- iv. Any participation by Buyer in the SAT and/or any inspection and/or testing by Buyer (or Buyer's decision not to participate in the SAT and/or conduct its own inspection and/or testing) shall not in any way affect the Seller's warranties or reduce or relieve Seller of its obligations under the Purchase Order or constitute a waiver of any of Buyer's rights.
- e. **Commissioning and training.** Seller will complete separate commissioning of the Equipment and training of Buyer's personnel in the use of the Equipment in alignment with best practices in its industry or what is required by the Purchase Order, whichever obligations are greater.
- f. **Additional testing.** If further tests are judged necessary by Buyer or the Seller, these will be carried out at the advance cost of the Seller unless otherwise agreed in writing by the parties subject to the right of either party to seek an adjustment in compensation or schedule. In the interest of clarity, it is the parties' general intent that to the extent additional testing is necessary due to the failure of the Equipment to pass previous tests, Seller shall be responsible, and to the extent additional testing is outside the scope of what the parties agreed, Buyer shall be responsible.

5. DELIVERY

- a. **Date of delivery.** The Seller shall deliver the Equipment to its final destination no later than the date or dates specified in the Purchase Order.
- b. **Notice of delivery.** At least fourteen (14) days in advance of delivery of the Equipment, Seller shall notify Buyer in writing of the anticipated delivery date.
- c. **Postponed delivery.** Buyer may postpone or suspend any delivery date by reasonable notice given to the Seller not later than forty-eight (48) hours before the date of delivery provided by Seller. If Buyer suspends the delivery for more than sixty (60) days, Seller shall have the right to cancel the Purchase Order.
- d. **Late delivery.** If the Seller fails to meet any agreed delivery date by seven (7) days or more, the Buyer may, at its sole option, (i) cancel the Purchase Order in whole or in part, or (ii) require Seller shall to pay as liquidated damages and not a penalty an amount equal to 1% of the total price of the Purchase Order for every week of delay up to a maximum of 10% of the total price.
- e. **Packaging.** The Seller shall box, crate or package as necessary all Equipment for shipment without charge, unless otherwise specified in the Purchase Order.

6. RISK OF LOSS AND TITLE

- a. **Risk of loss.** Risk of damage to or loss of the Equipment shall pass to Buyer upon its delivery to Buyer and Buyer's acceptance of the Equipment.
- b. **Title.** Title to the Equipment shall pass to Buyer upon delivery, unless payment for the Equipment is made prior to delivery in which case it shall pass to Buyer once payment has been made. If Buyer rejects the Equipment, then title to the Equipment shall remain or pass to the Seller (as the case may be) upon notice of such rejection.

7. TRANSPORTATION AND CLAIMS

The Seller is solely responsible for compliance with all laws relating to the labelling, packaging and carriage of the Equipment until delivery and for ensuring that such labelling, packaging, carriage and delivery are made in accordance with the best current industry practice and all applicable legal requirements and meet with all relevant government and local authority requirements. For the avoidance of doubt, the Seller shall be obliged to procure that all third party carriers and other contractors engaged by it shall comply with the foregoing. The Seller agrees to indemnify and hold harmless Buyer and the employees and sub-contractors of Buyer from and against all losses suffered or incurred by any of them arising out of or in connection with (i) the manufacture of the Equipment and/or (ii) any breach by the Seller of the provisions of clause, except for such losses which have been caused solely and exclusively by the negligence of Buyer or the employees or consultants of Buyer.

8. WARRANTIES

- a. **Warranties.** The Seller represents and warrants to Buyer that: (a) it has examined all specifications and/or drawings and/or other documents describing Buyer's functional requirements and that Seller has satisfied itself that these are suitable to enable the Seller to proceed with the performance of the Purchase Order; (b) all Equipment provided pursuant to the Purchase Order shall conform to any specification and/or drawing and/or other documents provided by Buyer and to any description or demonstration given by the Seller in respect of the Equipment concerned; (c) all Equipment delivered to Buyer shall be of merchantable quality, free from defects in materials and workmanship and shall, unless a different period is specified in the Agreement, remain fit for use in its intended purpose for the period of twenty-four (24) months commencing on the date of successful completion of Site Acceptance Testing; and (d) it has not used or specified for use and will not use or specify for use (or permit the use or specification by others) as part of the Equipment any substances, or material which are not in accordance with European Standards or Codes of Practice in so far as they may be applicable or relevant (and

if there are not any European Standards or Codes of Practice that are applicable or relevant that Seller has not used or specified for use any materials or substances known to the trade or profession at the time of specification to be deleterious to health, safety, durability or suitability for Buyer's use).

- b. **Remedy.** In the event of any breach of these warranties, and in addition to and without prejudice to any other rights which Buyer may have, Buyer may: (a) require the Seller to remedy the defect(s) in the Equipment and any damage to other property arising directly or indirectly out of any defect(s) in the Equipment in which event the Seller shall proceed to carry out such remedial works with all possible speed; or (b) arrange for a person other than the Seller to remedy the defect(s) in the Equipment and any damage to other property arising directly or indirectly out of the defect(s) in the Equipment, in which event the Seller shall indemnify Buyer on demand against all costs incurred in connection with such remedial works.
- c. **Applicable to replacements.** The provisions of this Section shall apply to any Equipment supplied by the Seller to Buyer in place of any defective Equipment.

9. SPARES AND CONSUMABLES

Seller shall ensure that adequate Spares and Consumables for the Equipment are available for purchase by Buyer. Seller shall affirmatively make recommendations to Buyer regarding any Spares and Consumables appropriate for routine and preventative maintenance during the Equipment's useful life and which, if any, should be purchased in advance by Buyer in alignment with best practices in its industry. Buyer may order Spares and Consumables either directly from Seller or from any third-party supplier.

INSTRUCTIONS

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. On shipments of drugs and chemicals, also show number of containers in each batch.

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

INVOICES: A valid invoice must include Buyer's Purchase Order number, invoice number, invoice date, description, price and quantity of goods/services provided, net weights, transportation terms, and total amount due. Buyer's Purchase Order line number must appear with each item on Seller's invoice. Buyer's Purchase Order currency must match invoice currency in order to be paid by Lilly Accounts Payable. Please refer to additional instructions regarding invoices in the Accounts Payable section on the Internet at <http://supplierportal.lilly.com>.

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 emailing P2P_Answer_Center@lilly.com.

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 United States; 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).

Invoices including VAT:

- Must include the seller's VAT registration number.
- All VAT charges submitted to Buyer will be shown as a separate line item on all Seller invoices.
- The invoices which include VAT charges must be delivered to Lilly in original paper invoice for payment or via the buyer's web invoicing system to be considered.
- 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 address listed in the Purchase Order.

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.

Additional questions on Lilly's invoice handling process may be directed to P2P_Answer_Center@lilly.com.

BILLS OF LADING:

- a. 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