

**Purchase Agreement
For Scan-Based Trading (“SBT”) Suppliers of CVS Pharmacy, Inc.**

This purchase agreement (this “Agreement”) is entered into by and between [Legal Name of SBT Supplier] (“Supplier”) and CVS Pharmacy, Inc., a Rhode Island corporation, on its own behalf and on behalf of its relevant store subsidiaries and affiliates (“Retailer”), and will be effective until terminated by either party upon thirty (xx) days’ written notice to the other party. [Legal name of SBT processor] is the “Designated SBT Processor” for this Agreement.

The parties agree that the following terms and conditions shall apply to all sales of merchandise by the Retailer from the Supplier, except where otherwise prohibited by local, state or federal laws or regulations:

1. GENERAL

This Agreement, in concert with any other written and signed agreements between the parties, governs the terms pursuant to which Retailer will sell merchandise from the Supplier. Supplier agrees that merchandise shall conform to any affirmations of fact or promise, any descriptions and any samples or models shown or made to Retailer, whether or not such affirmations, descriptions or samples are otherwise contained or referred to herein, and such affirmations, descriptions and samples shall constitute part of the basis of the bargain between Retailer and Supplier. In addition to any other warranties, express or implied, Supplier warrants that the merchandise shall be merchantable and shall be fit for the purpose for which sold. In case of conflict between the terms and conditions of this Agreement and any terms or conditions on or in any confirmation, acknowledgment, sale or invoice form of Supplier, or any correspondence pertaining to any of these or the merchandise, the terms and conditions of this Agreement shall control. No waiver of any breach of any terms or conditions of this Agreement shall be construed as a waiver of any subsequent breach of that term or condition or other term or condition of the same or different nature.

2. PRICING/DELIVERY

- (a) Merchandise shall be shipped directly to Retailer’s store locations as designated by Retailer. Acceptance of the merchandise by Retailer shall not constitute a waiver on the part of Retailer of its rights hereunder. Supplier shall be responsible for all shipping and freight costs. Supplier will comply with parking and neighborhood hour restrictions, if any, as well as volume restrictions during any front-door deliveries. The parties will agree upon proper entrance and exit on a store-by-store basis, provided that removal by Supplier of any products from a store shall require an inspection by the Store Manager or a designee of such Manager during front door deliveries.
- (b) Cost of goods of Merchandise shall be billed to CVS at a minimum in-going margin of **XX%**.
- (c) Until such time as Supplier’s products are purchased by Retailer’s customers, all products delivered by Supplier hereunder shall remain the sole and exclusive property of Supplier.
- (d) Applicable if Freezer or Cooler is needed to Store Product
 - 1) If any of the Products are damaged or destroyed, after delivery to Retailer’s stores in accordance with this Agreement and before being sold at retail, as a result of fire or other

casualty which would be covered by an industry standard form of “all risk” or equivalent property insurance policy (an “Insurable Loss”), [TBD] will inventory damaged product and provide counts to appropriate parties to settle account. Retailer shall pay to Vendor the previously agreed-upon wholesale price for such Products, less any applicable credits or allowances in effect at the time of the Insurable Loss, within 30 days after the occurrence of the Insurable Loss, whether or not such loss is actually covered by insurance.

- 2) Retailer shall use commercially reasonable efforts to keep, maintain, service and replace, if necessary all freezers, and other equipment to house, display, store or secure the Products, and, where applicable, to keep all temperatures at levels required to refrigerate and maintain such Products in a safe, secure, and hygienic manner, consistent with industry standards and the applicable law of any jurisdiction.
 - 3) Each party shall give prompt notice to the other of any complaint, inquiry, suit, claim, or notice of violation which it receives regarding any of the Products delivered to Retailer’s stores pursuant to this Agreement, and shall cooperate with each other in resolving any such issue. In the event of a Product recall or other withdrawal, Vendor will be responsible for all costs of removing such Products from the stores and properly storing or otherwise disposing of such Products. Retailer shall have the option of canceling undelivered merchandise in whole or in part.
- (e) Supplier will provide no promotional funding intended to drive sell-thru of Supplier’s products.
- (f) Any merchandise rejected by Retailer shall be held, at Supplier’s risk, subject to Supplier’s instructions or, at Retailer’s option, returned to Supplier without notice to Supplier and at Supplier’s expense and such return will be adequate notice of rejection of the merchandise.
- (g) Any discontinued merchandise, whether discontinued by Retailer or Supplier, and whether based on discontinuance of items or termination of this Agreement, shall be returned to or picked up by Supplier at the next delivery day following the date of discontinuance or termination. Supplier shall pay all freight and shipping associated with the returns. A reasonable time period will be established by agreement of the parties during which Supplier may sell inventories of items discontinued by Retailer in Retailer’s stores. Unless otherwise agreed, this period will not exceed 180 days from the date of written notification of such item’s discontinuance from Retailer to Supplier.
- (h) Once a recall is issued, the Supplier must remove all recalled product within twelve (12) hours. A physical count will be made at the time of the recall In order to maintain the perpetual inventory.
- (i) Supplier will be required to perform a summary check-in with a receiving clerk or other store personnel. Supplier shall directly stock its products in the space in each store that has been allocated by Retailer for Supplier’s products. Supplier is responsible for delivering, stocking, merchandising, rotating and marketing its in-date, saleable products.
- (j) In order to ensure that Retailer has an accurate count of Supplier’s merchandise on a regular basis, Supplier agrees to transmit delivery and returns data to Designated SBT Processor within twenty-four (24) hours after each delivery has occurred, utilizing electronic interface.

Supplier shall also transmit all inventory counts to Designated SBT Processor twenty-four (24) hours after each inventory count has occurred.

3. INVENTORY

- (a) As necessary, a physical inventory count will be performed prior to converting a store to SBT. The count will be performed either by a Retailer authorized inventory company or in-store personnel. Supplier may request copy of inventory counts at any time during this process for their mutual review. Upon completion of the count, the inventory is reviewed by Retailer for accuracy and released to Designated SBT Processor to establish each store's beginning inventory.

The store's inventory count date is considered the SBT Effective Date. Upon receipt of the inventory counts, Designated SBT Processor will invoice Retailer for all outstanding sales based on the SBT Effective Date.

Retailer [will bill the supplier for the outstanding inventory cost] / [will deduct from the supplier's current outstanding accounts payable account].

- (b) **Supplier** may perform physical inventory audits within each SBT store at **quarterly** intervals, as scheduled at least one week prior thereto with the Store Manager or his/her designee. Additional Retailer personnel may attend these inventory counts at any time. If a variance is determined of more than **5% percent (5%)**, Supplier shall immediately notify Retailer in writing of such variance. Reports of all inventory audits will be available to Retailer at any time upon request.

4. INFORMATION SYSTEMS

- (a) Item, Price and Promotion Synchronization. The Designated SBT Processor Item Catalog will be used as the central repository for item, authorization, price, and promotion information. Supplier will own and be responsible for the item, price, and promotion data contained in the Designated SBT Processor system, Retailer will be the source of item information and Retailer will own the authorization data. The parties agree that Designated SBT Processor holds the price of record for inventory calculations and Retailer holds price of record for Point Of Sale invoicing. All wholesale cost changes and deals shall be submitted by Supplier to both Designated SBT Processor and Retailer by such time as to ensure that the changes are in effect in the Retailer system prior to the price change effective date.
- (b) Scan Data Transmittal. Retailer will transmit daily scan data directly to Designated SBT Processor as early in the day as possible on the second day following each day the store is open. The resulting sales data will become the basis for the quantity sold and the cost of the item. The consumer sales data transmitted to Designated SBT Processor will include unit sales (in consumer units), unit cost, UPC, Retailer, store, and day information.
- (c) Scan Movement Integrity. Retailer shall maintain the systems and electronic processes necessary to accurately and reliably scan and record each sale of Supplier's products in Retailer's stores (the "Scan Movement"). Retailer shall use commercially reasonable efforts to ensure that products which cannot be scanned are accurately recorded by manually keying in Supplier's UPC codes that have been properly assigned to Retailer SKUs at the time and point of sale, provided, however, the manual keying process may not adversely impact customer service. Refunds will be scanned at store level to record and send negative scan

quantities, to ensure that each UPC is correct from the manufacturer and that no data is inaccurately deemed lost. Any SBT data or SBT product that has not been properly authorized by Retailer's category manager shall not be allowed in Retailer's system. Retailer will not pay for any unauthorized items.

(d) Scan Movement Reporting and Delays.

- 1) Scan Movement Reporting: Retailer and Supplier agree that Scan Movement for a store will only be transmitted to Designated SBT Processor for processing once all Scan Movement has been collected for that particular store for a particular day.
- 2) *Scan Movement Reporting Delays*: Supplier acknowledges that interruptions to normal processing schedules may occur, and may include but are not limited to, technical, business, and third-party interruptions, that may result in a delay of Scan Movement Reporting. In either case, Retailer shall work in good faith to ensure all Scan Movement is delivered to Designated SBT Processor as soon as delays are cleared.

(e) Scan Movement Research. Supplier, through its relationship with Designated SBT Processor, shall have access to all Scan Movement information from Retailer. Retailer will not produce Scan Movement reports or files for Supplier directly, although such information may be made available upon request in the event Retailer and Supplier are collectively researching an issue. Backups of Scan Movement shall be available for up to six (6) months in both Retailer's and Designated SBT Processor's systems.

(f) Invoices. Designated SBT Processor will generate daily invoices on behalf of Supplier based upon the store scan data and Retailer's cost of record transmitted to Designated SBT Processor. Designated SBT Processor will also group the vendor/day/store invoices at the store/region level creating a new consolidated invoice number for use by Retailer in the remittance process.

(g) Lost Data. The data in the Designated SBT Processor database will be utilized for transaction accounting. Both parties agree to use their best efforts to maintain the accuracy of the data and to resolve any discrepancies. If scan data for a particular day and store cannot be retrieved, processed, or is corrupted, Retailer and Supplier will calculate sales based on the most current, factually valid information available. Designated SBT Processor shall use commercially reasonable efforts to assist both Retailer and Supplier in the event of lost or corrupted data.

5. PAYMENT

The terms of payment for all Supplier merchandise sold at Retailer's stores shall be **[TBD]**. Dating will be based upon date of sale of merchandise or invoice date, whichever is later.

Retailer will issue payment and Designated SBT Processor will provide a remittance advice at the consolidated invoice number level (vendor/day/region). Both Retailer and Designated SBT Processor will have information available that the Supplier can use to reconcile the consolidated payment (stores/region).

6. COMPLIANCE WITH APPLICABLE LAWS

Supplier hereby represents, warrants and guarantees that the merchandise covered by this Agreement will be manufactured in compliance with, will meet the requirements of and will be properly labeled packaged and tested according to an otherwise conform in all respects with the following insofar as applicable to the merchandise: the Textile Fiber Products Identification Act, the Fur Products Labeling Act, the Wool Products Labeling Act, the Federal Hazardous Substances Labeling Act, the Flammable Fabrics Act, the Fair Labor Standards Act and any other applicable Federal, state, county or municipal law, ordinances, rules and/or regulations, that a continuing or other guarantee, if provided for under such law or regulation, will be filed with the Federal Trade Commission or other appropriate governmental agency and that an affirmation of such guarantee will appear on each invoice before payment of such invoice is required to be made, without loss of discount.

7. DATE-CODED MERCHANDISE

Supplier agrees to the following Retailer policies related to date-coded merchandise:

- (a) All SBT merchandise must be delivered to Retailer's stores with the maximum available shelf life from production. In cases of extremely short-lived product (Dairy, Bakery, etc.) all product must be coded as saleable through the next scheduled delivery date at a minimum.
- (b) All SBT merchandise will be rotated, all merchandise will be reviewed for expiration or "best by" dates, and short-dated merchandise pulled from the shelf by the Supplier or the Supplier's agent on each service delivery. "Short-dated merchandise" is defined as any merchandise that will expire or whose "best by" or "sell by" date will pass prior to the next scheduled delivery from the Supplier.
- (c) All short-dated merchandise removed from the sales floor will be removed by Supplier on next delivery cycle for the Supplier. In cases where returns must be in full case quantities the "less than case" merchandise will be stored separately from saleable back stock and be clearly marked as outdated, non-saleable, merchandise. Such merchandise returns will be accepted by Supplier as soon as a full case is achieved.

8. INDEMNIFICATION

Supplier warrants and agrees to protect, indemnify and hold Retailer harmless from any claim, obligations, debts, demands, or liabilities and from any damage, deficiency, loss, cost or expense (including without limitation attorneys' fees) arising from, relating to or connected with:

- (a) the use, possession or resale by anyone of any or all merchandise covered by this Agreement for real or alleged injuries to person or property, misrepresentations or breach of warranty, express or implied;
- (b) any real or alleged infringement of, or litigation concerning any trade name, trademark, patent, design, copyright, right of privacy or similar right in connection with any or all of the merchandise covered by this Agreement; and
- (c) any violation of Local, State or Federal laws, statutes or regulations regarding the manufacture and packaging of merchandise (including without limitation the requirement for expiration dating and other product information). In the event any such claims are made

against Retailer, Retailer reserves the right, in addition to other right and remedies, to refuse further merchandise and/or payment of purchase price.

9. FORCE MAJEURE

Neither party will be liable to the other for delay in performing or failure to perform any of its obligations hereunder if and to the extent that such delay or failure to perform is due to any cause beyond its control which could not have been reasonably foreseen and avoided by the exercise of due care and diligence consistent with the exercise of reasonable business judgment, including acts of God, fire, flood, explosion, wars, riots, civil disturbances and strikes, or other work stoppages, court orders, governmental intervention, failures or refusal to act by government authority, and other similar occurrences (each a "Force Majeure Event"). If either party is so delayed or unable to perform its obligations as a result thereof, in whole or in part, such party will promptly notify the other party thereof in writing, explaining the reason for such delay or inability to perform. In the event of such a Force Majeure Event, the time for performance or cure will be extended for a period equal to the duration of the Force Majeure Event, but in no event more than thirty (30) days. Any delayed performance not resumed after thirty (30) days will be deemed an event of default hereunder and will entitle the other party to terminate this Agreement. In the event in of a Force Majeure Event experienced by Retailer, Retailer shall have the option of cancelling undelivered merchandise in whole or in part, either temporarily or permanently.

10. NO ASSIGNMENT

Except as to the right to payment arising out of Supplier's due performance of its entire obligation, Supplier shall make no assignment of any right arising hereunder and shall not delegate any duty owed by it to Retailer and any such attempted assignment or delegation shall be wholly void and totally ineffective for all purposes, unless the prior written consent of Retailer, signed by an officer of Retailer, shall have been obtained. Retailer reserves all of the rights and defenses of an account debtor as set forth in the Uniform Commercial Code. In any case involving a permitted assignment Supplier shall promptly provide Retailer with such evidence of assignment, as Retailer shall request.

11. REMEDIES

The rights and remedies specifically provided in any of the terms and conditions of this Agreement are in addition to and not in substitution of all other rights and remedies given or implied by law, in equity or otherwise, and, in addition to all other rights given by law, Retailer shall have the right to recover for any non-conformity in any individual merchandise or an entire order, the loss of profit caused by such non-conformity.

12. COMPLIANCE CERTIFICATE; INSURANCE

Supplier shall file with Retailer, where required, a manufacturer's Compliance Certificate stating that each product conforms to each applicable product safety standard as is required by the Consumer Product Safety Act. During the term of this Agreement, Supplier shall, at its expense, carry and maintain: (a) Workers Compensation and Employers Liability Insurance meeting minimum statutory requirements, (b) Commercial General Liability insurance policy(s) including Broad Form Vendor's Coverage with a combined single limit of not less than \$5,000,000 per occurrence, (c) Automobile Liability Insurance with a combined single limit of not less than \$1,000,000 per occurrence. The policy shall be underwritten by an insurance company that carries an A- or better rating from A.M. Best. Each policy shall provide that (1) CVS Caremark Corporation and its subsidiaries and affiliates shall be named as an additional insured,

(2) not less than thirty (30) days' prior, written notice shall be given to Retailer in the event of any alteration or terms of such policy or of the cancellation or non-renewal thereof, and (3) such insurance will be primary insurance with respect to CVS Caremark Corporation and its subsidiaries and affiliates. Supplier shall furnish Retailer with a certificate of insurance evidencing coverage, and a certificate of insurance as evidence of renewal at least thirty (30) days prior to expiration of each policy. The amount of such required insurance coverage under this section shall not limit Supplier's obligations under this Agreement.

13. EQUAL OPPORTUNITY EMPLOYER

Retailer is an equal employment opportunity employer. Consequently, the parties agree that they will comply with Executive Order 11246, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 and the Vocational Rehabilitation Act of 1973, if applicable, and also that these laws are incorporated herein by this reference. The parties also agree that they will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age or any other characteristic protected by federal, state or local law.

14. TERMINATION

Retailer may terminate this Agreement at any time for any reason by giving at least thirty (TBD) days written notice to Supplier. Upon termination, Supplier will be required to remove all product on the SBT program from Retailer's stores on or prior to the termination date set forth in the notice.

In the event of a breach by Supplier of (i) this Agreement or (ii) any Retailer policies as set forth at [www.cvssuppliers.com], Retailer may terminate this Agreement immediately upon written notice. In the event of a termination for breach, all Supplier product on the SBT program must be removed from the store as promptly as possible, and in any event no later than ten (TBD) days from the date of the termination notice.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the signatures of their respective authorized representatives.

ACCEPTED AND AGREED TO:

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CVS Pharmacy, Inc.

[Legal name of SBT supplier]

BY: _____

BY: _____

NAME: _____

NAME: _____

TITLE: Divisional Merchandise Manager

TITLE: _____

DATE: _____

DATE: _____