



## RETAILER POLICY

### EFFECTIVE AS OF MARCH 15, 2024

**1. Application.** Effective March 15, 2024 (the “**Policy Effective Date**”), Elanco US Inc., (“**Elanco**”) has adopted this Retailer Policy (this “**Policy**”). (Various terms are defined in Section 24 of this Policy.)

**2. Effectiveness.** Beginning on the Policy Effective Date, Retailer, by doing any or all of the following (each, an “**Acceptance Event**”): (a) placing an order for, offering to sell or supply or selling or supplying to one or more others any or all Elanco Products or (b) submitting an application to Elanco or the substantive equivalent to become an Authorized Retailer (the “**Retailer Information Form**”), agrees to be bound by the terms and conditions of this Policy, as well as the remaining Elanco Retailer Policies, except to the extent that either or both of the following apply: (i) one or more parts of the Elanco Retailer Policies are expressly excluded by Elanco from mandatory compliance therewith and (ii) Retailer is deemed by Elanco to be an exempt from this Policy due to (A) the presence of a separate, then-in-effect written agreement between Elanco and Retailer or (B) otherwise.

**3. Certain Definitions.** For purposes of this Policy and subject to Section 9 hereof regarding Policy Termination: (a) “**Retailer**” (in the plural, “**Retailers**”) means, unless Elanco determines otherwise, an individual or entity (other than Elanco and its designee(s)) that (i) advertises, promotes and sells (or any thereof) to any or all potential and actual customers at retail (“**retail customers**”) and, in the singular, “**retail customer**”) and others located in the United States of America (“**U.S.**” or “**USA**”) one or more products offered by Elanco regardless of brand (each an “**Elanco Product**”) and, in the plural, “**Elanco Products**”), whether doing so directly or through another party that does such things as advertise or fulfill orders on behalf of such individual or entity or (ii) is an Authorized Distributor, but only to the extent, if any, that such distributor advertises, promotes and sells (or any thereof) to any or all retail customers and (b) “**Authorized Retailer**” means a Retailer upon which Elanco has conferred authorized status that, among other things, may permit Retailer to be eligible for certain promotional and other benefits as made available by Elanco to Retailer.

**4. Appointment.** Subject to the terms and conditions of the Elanco Retailer Policies (sometimes also referred to as the “**ERP**”), Retailer is and will perform as a Nonexclusive Retailer during the Policy Term (as defined in Section 9 of this Policy) for the Authorized Products.

**5. Acceptance.** For any or all items of the Elanco Products, each Retailer will only submit orders to and purchase from Elanco and the Authorized Distributors, as permitted by Elanco, except that, during the Policy Term, Retailer may accept returns from the Authorized Customers consistent with the terms of the ERP relevant thereto, if any. Each such order will be subject to (a) acceptance by Elanco or an Authorized Distributor and (b) the terms and conditions of sale (including without limitation those regarding price, credit, payment and discounts) (i), if such order is accepted by an Authorized Distributor, as determined by such Authorized Distributor or between Retailer and such Authorized Distributor (as long as there is no conflict with the ERP) and (ii), if such order is accepted by Elanco pursuant to the ERP, as described in the ERP. Retailer will comply with all such terms and conditions.

**6. Responsibilities.** Except as otherwise expressly authorized, directed or approved in advance by Elanco Notice or otherwise expressly permitted by the ERP, Retailer, at its own expense, will do each of the following:

(a) **Promotion.** Promote the sale and use of the Authorized Products;

(b) **Questions.** Promptly and effectively respond to questions and requests regarding any or all items of the Authorized Products (i) from the Authorized Customers and (ii) from Elanco and the Authorized Distributors, including without limitation questions and requests regarding any or all of the Authorized Customers;

(c) **Staff.** Maintain a staff of competent marketing, sales, and retail customer service personnel who are appropriately educated (as determined by Elanco) to describe, sell and demonstrate each of the Authorized Products;

(d) **Training.** As required by Elanco in the ERP or elsewhere, insure that Retailer personnel designated by Elanco complete all training (including without limitation refresher courses and updates), and maintain the level(s) of trained personnel as described by Elanco;

(e) **Professionalism.** Represent the Authorized Products in a professional manner and refrain from any conduct that is or could be detrimental to the reputation or integrity of any or all of Elanco, Elanco Products, the Authorized Distributors and Retailer;

(f) **Transmittal.** Promptly transmit to each individual and entity communications from Elanco as Elanco designates;

(g) **Authorizations.** Obtain and maintain all of the authorizations, licenses and approvals required by law or deemed desirable by Elanco (“**Authorizations**”) for Retailer to fully perform under the ERP (other than those Authorizations acquired or provided by Elanco), except that Retailer will obtain the prior written consent of Elanco for each of the Authorizations which uses, relates to or describes any or all of the Elanco Intellectual Property;

(h) **Duties.** With respect to dealings with retail customers of Retailer, assume sole responsibility (including with limitation legal compliance and conformity to the ERP) for all privacy matters, terms of use, terms of sale, contractual obligations, fulfillment, taxes, returns, representations and product claims, except for those product claims regarding Elanco Products (i) originating from Elanco or expressly approved by Elanco for use by Retailer and (ii) unchanged and properly used by Retailer;

(i) **Limitations.** During the Coverage Period, refrain from knowingly or negligently directly or indirectly advertising, promoting or selling any or all Elanco Products: (i) other than the Authorized Products and (ii) in either or both of the following ways: (A) to or for any individual(s), entity or entities located outside the USA (except to the extent any or all advertising and promotion efforts cannot be reasonably restricted geographically, but this exception does not apply to sales made to anyone located outside the USA) and (B) using any business name(s) other than Elanco-Approved Name(s);

(j) Electronic Content. During the Coverage Period, employing Electronic Content (online, texting, social media or otherwise) in any fashion (i) to offer or sell while failing to clearly and conspicuously indicate where feasible (as determined by Elanco) the relevant Elanco-Approved Name(s), street address, telephone number and email address(es); (ii) unless and only to the extent each storefront, website, marketplace and platform used for such purpose by Retailer (A) does not appear on the Prohibited Websites/Platforms List, if any, and (2) is expressly approved in advance by Elanco in writing for such use (including without limitation by Elanco Notice or in the Approvals Policy), and which approval is not the subject of Disapproval Notice; or (C) to give the impression (as determined by Elanco) that any or all of such storefronts, websites, marketplaces or platforms is or are sponsored or operated by Elanco;

(k) No Resale. With respect to any or all Elanco Products, refrain from knowingly or negligently directly or indirectly (i) selling, supplying or drop shipping to or on behalf of another in any or all of the following ways: (A) to anyone for resale other than (1), in the case of bona fide returns permitted by Elanco, to any or all of Elanco and the Authorized Distributors or (2) as permitted by Section 11 of this Policy and (B), during the Coverage Period, (1) in a quantity to anyone greater than Retailer knows or should know (as determined by Elanco) is typically for individual use and (2) to anyone other than one or more of the Authorized Customers, including without limitation selling to the Restricted Accounts and (ii) offering or selling anything that is a modified, gray market, tampered or counterfeit version of any or all of such products, unless, in the case of modifications only, each such modification is expressly approved in advance by Elanco Notice;

(l) Maintaining Quality.

(i) Quality Control. As required by Elanco in the ERP, Elanco Notice or elsewhere, comply with all quality control directives regarding any or all Elanco Products, including without limitation those dealing with (A) product rotation (including, but not limited to, honoring sell-by or expiration dates); (B) product handling and disposal (such as, but not restricted to damaged and out-of-date products); (C) dealing with and use of prescription products; (D) use of Elanco Intellectual Property; (E) returns; (F) warranty claims; (G) recalls, withdrawals and the substantive equivalent (collectively, **“Product Actions”**), regardless whether initiated by Elanco, required by one or more governmental authorities or otherwise; (H) handling of retail customer complaints; (I) selling discontinued items; and (J) use of Elanco support resources;

(ii) Product Actions. In the event of one or more Product Actions: (A) Elanco will be solely responsible for coordinating and making all decisions regarding each of such action(s) and (B), as directed by Elanco, Retailer will, promptly and in a timely fashion, provide assistance and cooperate fully with respect to such decisions; and

(iii) Adverse Events. Except to the extent expressly directed by Elanco otherwise (such as, but not limited to, one or more already-initiated Product Actions), if Retailer, with respect to one or more Elanco Products, becomes aware of an adverse event (for example, but not restricted to, an alleged injury) or a claimed quality issue (including without limitation a retail customer complaint), Retailer will, promptly and in a timely fashion, (A) report such event or issue to Elanco as designated by Elanco and (B) use commercially reasonable efforts to have each of the retail customers involved therewith report such event or issue by contacting Elanco in accordance with the instructions on the applicable label(s) for each of the relevant Elanco Products;

(m) Compliance. Comply with all laws (collectively, the **“Legal Standards”**) and, except to the extent expressly excluded by Elanco from mandatory compliance therewith, all of the ERP;

(n) Requests. Promptly and in timely fashion comply with whatever request may be made by Elanco or any or all of the Authorized Distributors relating to any law or expectation thereof or the modification or recall of any or all items of Elanco Products; and

(o) Post-Termination. Notwithstanding anything to the contrary in this Policy, after Policy Termination, ensure that the Retailer Entities immediately cease at the end of the Coverage Period: (i) purchasing, representing or otherwise being supplied with any or all Elanco Products, regardless of source; (ii) advertising, promoting, selling and supplying any and all Elanco Products; and (iii) all use of (A) any or all of the Elanco Intellectual Property and (B) anything which would give the impression that any or all of the Retailer Entities is approved by Elanco to act as a retailer, reseller, dealer or representative of or for any or all Elanco Products or has any affiliation whatsoever with Elanco or such products.

**7. License**. During the Coverage Period, Retailer is granted a limited, non-exclusive, non-transferable, revocable license to use the Elanco Intellectual Property solely in connection with the performance by Retailer in a manner consistent with the ERP. All goodwill arising from such use shall inure solely to the benefit of Elanco or its designee(s). Except as expressly approved by Elanco Notice, Retailer: (a) will use the Elanco Intellectual Property only as permitted by Elanco in the ERP and in a manner consistent therewith and all other direction from Elanco, including without limitation (i) that regarding quality control; (ii) employing the markings, legends and attributions specified by Elanco, (iii) maintaining the confidentiality of all information designated as confidential by Elanco in the ERP and elsewhere and (iv) using only artwork, images and copy depicting or pertaining to any or all Elanco Products or otherwise regarding Elanco that have been expressly approved in the ERP or otherwise in writing by Elanco for use by Retailer and which approval has not been rescinded by Disapproval Notice; (b) will not use any or all of the Elanco Intellectual Property (or any translation(s), misspelling(s), variation(s) or distortion(s) thereof) as or as part of any or all of the trademarks, trade names, service marks, trade dress and Domains of Retailer or make any filings with respect to the Elanco Intellectual Property (except as permitted by Section 6(g) of this Policy); (c), if using in any way during the Coverage Period material originating from Elanco (including without limitation artwork, images and copy), will ensure that such material and everything used in conjunction with it (including without limitation product descriptions and depictions) are accurate and up to date; (d) assign and agree to assign to Elanco (with good title) all right, title and interest (including without limitation the moral rights) in and to each of the materials prepared by or for Retailer and using any or all of the Elanco Intellectual Property or otherwise containing material provided in whole or part by Elanco, including without limitation each translation thereof; and (e) will refrain from questioning or challenging the rights claimed by Elanco or its designee(s) in or to the Elanco Intellectual Property or assisting in any way any other(s) in doing so.

**8. Assignment/Delegation**. During the Coverage Period and without the prior written consent of Elanco (or without the subsequent consent of Elanco in the event that prior written consent is impossible) (either, **“Elanco Consent”**), Retailer will not do either or both of the following: (a) assign any or all of Retailer’s rights or delegate the performance of any or all of Retailer’s duties and obligations under the ERP and (b) transfer control of Retailer, whether through any transaction or series of transactions. In the event of such assignment, delegation or transfer which Elanco deems lacks Elanco Consent, Elanco, as described in Elanco Notice and as a non-exclusive remedy, may elect any or all of the following: (i) that each such assignment, delegation or transfer is void; (ii) that each authorization granted or provided hereunder to Retailer by Elanco (including without limitation Retailer’s designation as an Authorized Retailer) is revoked and terminated; and (iii) that this Policy is terminated.

**9. The Policy Term.** Although this Policy is effective as of the Policy Effective Date, this Policy will be effective with respect to Retailer during the period (the **“Policy Term”**) commencing on the date of Retailer’s Acceptance Event and ending upon termination of this Policy (**“Policy Termination”**) (a) under Section 10 hereof or (b) by either Party providing the other with no less than fifteen (15) days’ prior written notice of termination, which termination may be with or without cause or unspecified and shall be effective on the date designated therein. Among other things, Policy Termination, except to the extent expressly stated in the ERP, (a) results in the withdrawal of Elanco’s designation of Retailer as an Authorized Retailer and (b) terminates the duties and obligations under any and all of the ERP, except for those which survive Policy Termination.

**10. Policy Termination.** Elanco will have the right to terminate this Policy (or, if Elanco so elects, the Coverage Period) effective immediately upon receipt by Retailer of Elanco Notice thereof (or effective as otherwise specified in such notice, but in no event prior to the date of such receipt) in the event that at any time during the Policy Term: (a) Elanco withdraws Elanco’s designation of Retailer as an Authorized Retailer or denies such designation; (b) any or all of the Retailer Parties provide(s) to or for the use of any or all of the Elanco Parties any materially false or deceptive information; (c) Retailer files for bankruptcy protection, is put into bankruptcy, is insolvent or makes an assignment for the benefit of creditors; (d) a receiver is appointed for Retailer or for any or all of its assets; (e) Retailer is dissolved; (f) a relevant and material portion of the business of Retailer (as determined by Elanco) is discontinued; (g) Retailer ceases actively doing business with any or all of Elanco and the Authorized Distributors under the ERP or otherwise; (h) any or all of the Retailer Parties threaten(s) to breach any or all of Sections 6(m), 6(o) and 7 of this Policy or breach(es) any or all provisions of the ERP; or (i) Elanco makes the election under Sections 8(ii), 8(iii) or 18(b) of this Policy. Retailer will immediately provide written notice to Elanco (in advance if practicable) of any or all of the things described in Sections 10(c) through 10(g) hereof and the occurrence or likely occurrence of that described in Sections 8(a) or 8(b) hereof, but the failure to provide such notice does not in any way diminish Elanco’s rights under Sections 8 and 10 hereof.

**11. Buyback.** If and as requested by Elanco, Retailer will sell or cause the sale to Elanco of and, as directed by Elanco and at the expense of Elanco or its designee(s), ship or cause to be shipped to each individual or entity designated by Elanco each of the items of Elanco Products in the possession or under the control of any or all of the Retailer Entities (free of all liens, security interests, claims and encumbrances, other than that or those in favor of Elanco) which is acceptable (as determined by Elanco) at a price equal to the price paid to or, as determined by Elanco, should have been paid to Elanco or each relevant Authorized Distributor therefor or, if unpaid, in lieu of the amount therefor due to or, as determined by Elanco, should have been due to Elanco or each such Authorized Distributor, less in either case a restocking charge equal to the amount, if any, described in the ERP or by Elanco Notice.

**12. Acceptance.** At all times, Elanco shall have the right to: (a) accept, reject or, if already accepted by Elanco, cancel one or more Direct Orders for any or all items of Elanco Products for any reason or no reason; (b) allocate any or all items of Elanco Products in such manner as Elanco deems advisable; and (c), in the event that Elanco should determine that one or more special credit restrictions (as defined by Elanco) apply, impose such payment terms as Elanco deems appropriate prior to doing either or both of the following: (i) accepting from Retailer any or all new Direct Orders or (ii) filling or completing any or all pending Direct Orders (even if accepted) from Retailer. After Policy Termination, acceptance or fulfillment by any or all of Elanco and the Authorized Distributors of one or more orders from Retailer (regardless whether accepted before or after such termination) will: (A), unless otherwise designated by Elanco, be subject to all of the terms and conditions of the ERP as if such acceptance or fulfillment had occurred during the Policy Term and (B), in no event, be construed as a renewal, extension or reinstatement of this Policy or as a waiver of such termination or notice of such termination, except to the extent expressly stated by Elanco Notice.

**13. Modification.** At any time and without prior notice: (a) Elanco may do any or all of the following: (i) modify any or all of the ERP, (ii) issue one or more new Elanco Retailer Policies and (iii) provide Disapproval Notice (with each such modification, issuance or disapproval becoming effective immediately, unless another effective date is designated by Elanco Notice) and (b) any or all items of Elanco Products made available to Retailer may change, in which case, Retailer acknowledges and agrees that Elanco and each of the Authorized Distributors may, without liability or penalty, do either or both of the following: (i) cancel or delay fulfillment of all or part(s) of any or all pending orders (even if accepted) from Retailer and (ii) refuse to accept all or part(s) of any or all new orders from Retailer.

**14. Governing Law.** The ERP shall be governed by and interpreted under the substantive and procedural laws of the State of Indiana without regard to that state’s conflicts of laws provisions, except that, to the extent otherwise applicable, the United Nations Convention for the International Sale of Goods does not apply. Each Party, in the case of Elanco, on behalf of the Elanco Parties, and, in the case of Retailer, on behalf of the Retailer Parties, agrees that, other than claims brought by one or more parties other than the Elanco Parties and the Retailer Parties, each dispute between the any or all of the Elanco Parties on one hand and any or all of the Retailer Parties on the other arising out of or relating in any way to the ERP will be litigated at the trial level as a bench trial in state court in Greenfield, Indiana or federal court in Indianapolis, Indiana, **as each Party, in the case of Elanco, on behalf of the Elanco Parties, and, in the case of Retailer, on behalf of the Retailer Parties, hereby waives trial by jury.** Retailer, on behalf of the Retailer Parties: (i) hereby submits to personal and subject matter jurisdiction in such courts, (ii) agrees not to contest venue and (iii) agrees that, in the event that litigation of such dispute does not commence during the one (1) year period after the occurrence of the event giving rise to such dispute, the claims of any or all of the Retailer Parties against any or all of the Elanco Parties in such dispute will be barred.

**15. Direct Orders.** In the event that Elanco receives one or more Direct Orders (or similar or related documents) from Retailer that Elanco deems contain one or more provisions which are inconsistent with or in addition to any or all provisions of the ERP: (a) each such order (or document) will be conclusively deemed to be governed by the ERP; (b) each such inconsistent or additional provision will be deemed stricken; and (c) none of such orders will be deemed to be governed by any provision(s) other than that or those contained in the ERP, unless and until a written supplement is duly executed by both of the Parties which expressly adopts such provision(s). To the extent otherwise applicable, nothing in the ERP (including without limitation the terms and conditions of this Policy) is an expression of acceptance or a written confirmation within the meaning of Section 2-207 of the Uniform Commercial Code, as acceptance by Elanco of each of the Direct Orders is expressly conditioned upon Retailer’s agreement to and acceptance of each additional or conflicting term included in the ERP, except to the extent one or more parts of the ERP are expressly excluded by Elanco from mandatory compliance therewith.

**16. Approval Process.** Approval or disapproval of or the consent for each of the things for which Retailer is required to obtain the approval or consent of Elanco pursuant to the ERP (including without limitation designation as an Authorized Retailer pursuant to Section 2 of this Policy or otherwise) lies solely within the discretion of Elanco. Anything for which such approval or consent has not been obtained within seven (7) days after receipt by Elanco of a submission from Retailer requesting such approval or consent (such as, but not limited to, the Retailer Information Form) will be deemed to be disapproved

or denied, regardless whether Retailer receives the express disapproval or denial of Elanco therefor or receives no substantive response to such submission(s). Retailer is solely responsible for obtaining such approval or consent from Elanco in a timely fashion so as to meet the duties and obligations of Retailer under the ERP. The approval or consent of Elanco regarding each such submission will in no way constitute, imply or be construed that such submission: (a) complies with the Legal Standards; (b) complies with the rights of any individuals and entities (other than the right of Elanco to approve or consent); and (c), except as expressly indicated therein, waives or amends any or all of the duties and obligations of Retailer under the ERP.

**17. Headings and Other Terms.** The headings appearing at the beginning of any or all of the ERP and each part thereof are for convenience only and shall not be deemed to define, limit or construe the contents of any or all thereof. The ERP shall be deemed to reflect the mutual intent of the Parties, and no rule of strict construction shall be applied against either Party. Time is of the essence of the ERP. Except to the extent expressly excluded by Elanco from mandatory compliance therewith, a breach by one or more of the Retailer Parties of any or all of the ERP will be deemed to be a material breach by Retailer of this Policy. In the event that Retailer receives Elanco Notice regarding Policy Termination or a Disapproval Notice, Retailer will fully comply and cause others affected thereby to comply with the action(s) described therein no later than the date or end of the time period specified thereby. Elanco shall not be liable for: (a) loss, damage or delay resulting from any cause whatsoever beyond the reasonable control of Elanco and (b) consequential, indirect, incidental, punitive or special damages, loss or expense to any or all of the Retailer Parties and others for any reason(s) whatsoever, regardless whether Elanco was advised of the possibility thereof. The interpretation by Elanco of the ERP will control. Each of the Retailer Parties is jointly and severally liable to Elanco for the performance of the Retailer Parties under the ERP. Wherever required by the context thereof, each pronoun used therein shall be deemed to include both the singular and the plural and to encompass each gender. The relationship between Elanco and each of the Retailer Parties shall be that of independent contractors, and, notwithstanding the use anywhere of the term "partner," anything similar thereto or any other term(s), nothing regarding such relationship expressed or implied in the ERP or elsewhere shall constitute or be deemed to constitute a partnership, joint venture or franchise between them or shall constitute or be deemed to constitute any or all of the Retailer Parties as agent of any or all of the Elanco Parties for any purpose whatsoever. None of the Retailer Parties shall have any authority or power in any way for any purpose to do any or all of the following: (i) bind one or more of the Elanco Parties, (ii) contract in the name of any or all of the Elanco Parties and (iii) create a liability against one or more of the Elanco Parties.

**18. Reformation.** If, in the view of Elanco, applicable law contains or may contain any requirement(s) or other provision(s) that is or are contrary to, in conflict with or missing from any provision(s) or part(s) thereof in the ERP (collectively, the "**Affected Provisions**"), Elanco, at any time and without constituting an admission, may elect by Elanco Notice (effective upon receipt thereof or as otherwise designated by Elanco therein) that: (a) such requirement(s) or provision(s) be deleted from, substituted for or added to the Affected Provisions to the minimum extent necessary in the opinion of Elanco to address the issue(s) or (b) this Policy be terminated. If and to the extent that Elanco determines otherwise, if one or more parts of the ERP shall be held invalid, the remainder of the ERP shall continue in full force and effect, and each such part shall be deemed not to be part of the ERP.

**19. Entire Understanding.** The ERP, as modified from time to time: (a) constitutes the entire understanding of the Parties binding upon them with respect to the subject matter thereof; (b) is intended to govern the relationship between the Parties therefor; (c) supersedes all agreements, representations or statements between the Parties, either oral or written with respect thereto; and (d) except as otherwise expressly provided herein, may be amended or modified only by a written supplement, as each Party hereby waives its right, if any, to modify the ERP orally. Each Party acknowledges and agrees that: (i) it has full authority to perform the ERP; (ii) each agreement between any or all of Elanco and its Affiliates and its or their predecessor(s) on one hand (collectively, the "**Elanco Entities**") and any or all of the Retailer Entities and its or their predecessor(s) on the other has been fully performed by the Elanco Entities; (iii) the terms and conditions of this Policy have been taken into account and reflected in determining the consideration to and from each Party under this Policy (to the extent such consideration is necessary) and the decision by each Party to perform under this Policy, including without limitation that no new consideration is required for Elanco to exercise any or all of Elanco's rights under Sections 13 and 18 of this Policy or, if consideration (whether for either or both of such provisions or otherwise) is required, it is deemed to be given by any continued performance under the ERP or such other means, if any, designated by Elanco; and (iv) in the event of any conflict between the ERP and any or all agreements between the Parties, the ERP will control as and to the extent designated by Elanco (silence is not a conflict). Each date and time period referred to in the ERP means or is based on the date and time in Greenfield, Indiana.

**20. Enforcement.** In the event any or all of the Elanco Parties file(s) any action(s) against any or all of the Retailer Parties to enforce or defend any of the rights claimed thereby or file(s) any response(s) to or in any action(s) brought against any or all of the Elanco Parties by one or more of the Retailer Parties, Elanco shall be entitled: (a) to equitable relief without the necessity of posting bond or other security (including without limitation entry of temporary and permanent injunctions and orders of specific performance) and (b) to recover in each award or judgment wholly or partially in favor of Elanco entered in such action(s) the attorneys' fees and litigation expenses of Elanco, the court costs and damages as permitted by law, the costs of collection thereof and other relief as may be awarded or ordered. In the event of any breach or threatened breach of any or all of Sections 6(b) through 6(e), 6(g) through 6(o), 7, 8 and 11 of this Policy and each other part of the ERP so designated by Elanco, remedies at law alone will not be adequate. Notwithstanding Section 20(b) of this Policy, if the operation of applicable law prohibits such provision regarding attorneys' fees and expenses or makes such provision reciprocal in whole or part, such provision will be deemed to be revised to provide the fees and expenses covered thereby only to the prevailing party. Elanco has rights of set-off, recoupment and counterclaim against Retailer.

**21. Waiver.** Except as otherwise expressly provided in the ERP or as the Parties otherwise may expressly agree in writing signed by both of the Parties, no failure, refusal, neglect, delay, waiver, forbearance or omission by Elanco to exercise any right(s) under the ERP or to insist upon full compliance by the Retailer Parties with the duties, obligations or restrictions of the Retailer Parties thereunder shall constitute a novation or waiver of any provision(s) thereof or otherwise thereafter limit the right of Elanco to fully enforce any or all of the provisions and parts thereof.

**22. Survivability.** The following will survive Policy Termination: (a) through the Coverage Period, all provisions of the ERP and (b) thereafter, (i) Sections 2 through 5, 6(b)(ii) and 6(e) through 24 of this Policy; (ii) each of the definitions otherwise contained in any or all of the ERP; and (iii) each of the ERP (other than this Policy) that, by its own terms, expressly states that it or its part(s) survive(s) Policy Termination (or words to that effect) or which Elanco otherwise designates as so surviving.

**23. Notices.** Except as otherwise provided in the ERP, each notice described therein to either Party (including without limitation to change a Party's principal address): (a) must be in writing and shall be sent to the intended recipient (with all fees paid) by express courier service or email to such recipient's then-current principal address and (b) shall be considered effective or received when actually received or refused by such recipient, provided that the sending Party



has written confirmation thereof and such refusal was not due electronic or mechanical malfunction or failure. For purposes of the ERP, **“principal address”** means (i), with respect to Elanco: Policy Administrator, Elanco US Inc., 2500 Innovation Way, Greenfield, IN 46140 • email: Brand.Protection.Admin@elancoah.com and (ii), with respect to Retailer: the address designated by Elanco, whether such address is that on file with Elanco or Elanco reasonably determines such address. Each Elanco Notice and other notice from Elanco regarding or directed to any or all of the Retailer Parties need only be sent to or made available to Retailer.

**24. Certain Definitions.** For purposes of this Policy (and regardless whether appearing in bold italics): (a) **“Affiliates”** means any or all of the individuals and entities directly or indirectly controlling, controlled by or under common control with the Party identified, with **“control”** and its variants in this context and for purposes of Section 8(b) of this Policy having the same meaning as under the federal securities laws of the USA; (b) **“Approvals Policy”** means that part of the ERP labeled as such, if any; (c) the **“Authorized Customers”** means, collectively, actual and prospective retail customers of the Authorized Products located in the USA and permitted under the ERP, which excludes without limitation resellers and the Restricted Accounts; (d) the **“Authorized Distributors”** (in the singular, **“Authorized Distributor”**) means, collectively, each individual or entity designated as such by Elanco Notice (unless and until such notice is provided by Elanco, each individual and entity otherwise permitted by Elanco to sell to Retailer will be considered an Authorized Distributor); (e) the **“Authorized Products”** means those Elanco Products for resale by Retailer permitted in the ERP, which are made available to Retailer by any or all of (i) Elanco and (ii) the Authorized Distributors; (f) the **“Coverage Period”** means the Policy Term and the reasonable period afterward, if any, until (as relevant) Retailer has or, as determined by Elanco, should have wound up its business with respect to Elanco Products (such winding up will be in a manner consistent with the ERP), except that the Coverage Period may be limited to the Policy Term or otherwise ended by Elanco Notice; (g) **“Direct Orders”** means orders for any or all items of Elanco Products submitted by Retailer directly to Elanco as permitted by the ERP; (h) **“Disapproval Notice”** means each Elanco Notice or each of the Elanco Retailer Policies that disapproves of or withholds or withdraws consent or approval for one or more uses, certain conduct or otherwise; (i) **“Elanco-Approved Name(s)”** means, individually and collectively, (i) the full business name of Retailer and (ii) such name(s) expressly approved in advance by Elanco in writing (including without limitation by Elanco Notice or in the Approvals Policy) for use by Retailer, provided that such use is not the subject of Disapproval Notice; (j) the **“Elanco Intellectual Property”** means any or all of the (i) patents, (ii) designs, (iii) trademarks, (iv) trade names, (v) service marks, (vi) logotypes, (vii) trade dress, (viii) images, (ix) artwork, (x) copy, (xi) commercial symbols, (xii) copyrights, (xiii) domains, sub-domains, Uniform Resource Locators (URLs) and the substantive equivalent (collectively **“Domains”**), (xiv) data, (xv) data bases, (xvi) marketing information, (xvii) trade secrets, (xviii) confidential information and (xix) anything else in which any or all of Elanco or its designee(s) claim(s) proprietary rights, regardless whether steps have been taken to register such rights with any government authority or private registrar; (k) **“Elanco Notice”** means notice from Elanco to Retailer that either (i) complies with Section 23 of this Policy or (ii) is otherwise provided or made available electronically (such as, but not limited to, posting on one or more websites designated by Elanco, as long as notice under such Section 23 is received by Retailer, which, at a minimum, indicates that a change has been or will be made to what is posted thereon); (l) the **“Elanco Parties”** means, collectively, Elanco, its Affiliates and its or their designees, officers, directors, managers, employees and independent contractors (at any time, when and to the extent expressly indicated by Elanco, use in the ERP of “Elanco” may refer to or include any or all of the Elanco Parties); (m) **“Elanco Retailer Policies”** means, collectively, each then-current version of the announcements and policies (whether in the form of correspondence, memoranda, notices or otherwise) (i) expressly labeled as or deemed by Elanco to be a policy or policies applicable to Retailer and (ii) from time to time issued in writing or made available electronically to Retailer by the policy administrator of Elanco (or the designee(s) or successor(s) thereof); (n) **“Electronic Content”** means information that (i) can be accessed by an internet browser or the substantive equivalent, including, but not limited to, (A) internet shopping sites, (B) online marketplaces and (C) comparison shopping engines (CSEs) and price comparison websites (PCWs) (e.g., Google Shopping, Rakuten, eBay, Amazon and PriceGrabber); (ii) is provided by or through one or more applications (apps) for computers or mobile devices (e.g., tablets and smartphones), including, but not limited to, social media apps (e.g., X, Instagram and Facebook) and mobile gaming platforms; or (iii) is furnished by or through (A) electronic solicitations or other electronic communications (e.g., robocalls, caller-on-hold and other audio recordings, messaging (such as SMS (text), MMS (multimedia), IM (instant) and app-based), webcasts, email and online or other electronic chats), (B) electronic advertisements (e.g., email newsletters, pop-ups and banners) or (C) the substantive equivalent; (o) **“negligently”** means should have known (as determined by Elanco); (p) **“Nonexclusive Retailer”** means that (i) Retailer may hold itself out as a reseller for the Authorized Products as permitted by the ERP during the Coverage Period and (ii) any or all of Elanco and others may offer and sell anywhere and everywhere any or all items of the Authorized Products and anything else directly or indirectly to one or more individuals and entities other than Retailer; (q) **“Party”** means Elanco or Retailer and the **“Parties”** means Elanco and Retailer; (r) the **“Prohibited Websites/Platforms List”** means the then-current list of websites and platforms banned by Elanco for use by Retailer to offer or sell any or all of Elanco Products, which list is provided or otherwise made available by Elanco Notice; (s) the **“Retailer Entities”** means Retailer and its Affiliates, while the **“Retailer Parties”** means the Retailer Entities and the officers, directors, managers, employees and independent contractors of each; (t) the **“Restricted Accounts”** means, collectively, each individual or entity so designated by Elanco Notice or in the ERP; and (u) the **“substantive equivalent”** and its variants mean or refer to equivalency as determined by Elanco.

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