

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM333326

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Eli Lilly and Company		09/10/2014	CORPORATION: INDIANA
RECEIVING PARTY DATA			
Name:	Nexcyon Pharmaceuticals, Inc.		
Street Address:	644 West Washington Street		
City:	Madison		
State/Country:	WISCONSIN		
Postal Code:	53703		
Entity Type:	CORPORATION: WISCONSIN		
PROPERTY NUMBERS Total: 2			
Property Type	Number	Word Mark	
Registration Number:	3558049	BOND	
Registration Number:	3330512	RECONCILE	
CORRESPONDENCE DATA			
Fax Number:	6082575444		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	608-257-5661		
Email:	Axley-IPDocket@Axley.com		
Correspondent Name:	John G. Walsh		
Address Line 1:	2 E. Mifflin St.		
Address Line 2:	Ste. 200		
Address Line 4:	Madison, WISCONSIN 53703		
ATTORNEY DOCKET NUMBER:	17562.69234		
NAME OF SUBMITTER:	John G. Walsh		
SIGNATURE:	/John G. Walsh/		
DATE SIGNED:	02/26/2015		
Total Attachments: 9			
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BILL OF SALE AND ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS **BILL OF SALE AND ASSIGNMENT AND ASSUMPTION AGREEMENT** (this "**Agreement**"), dated as of is made by and between Eli Lilly and Company, acting through its Elanco Animal Health division, an Indiana Corporation ("**Assignor**"), and Nexcyon Pharmaceuticals, Inc., a Wisconsin corporation ("**Assignee**"). Each of the foregoing parties is referred to herein individually as a "**Party**" and together as the "**Parties.**" Capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in the Asset Purchase Agreement (as defined below).

WITNESSETH:

WHEREAS, the Parties entered into that certain Asset Purchase Agreement dated as of September 10, 2014 (as the same may be amended, the "**Asset Purchase Agreement**") pursuant to which Assignee is to acquire all of Assignor's right, title and interest in and to the Purchased Assets.

NOW, THEREFORE, in consideration of good and valuable consideration paid pursuant to the terms and conditions of the Asset Purchase Agreement, the receipt and sufficiency of which is hereby acknowledged, each Party hereby agrees as follows:

1. Sale and Transfer of Purchased Assets. Effective as of as of 11:59 p.m., New York time, on the Closing Date (the "**Effective Time**"), pursuant to, and upon the terms and subject to the conditions set forth in, the Asset Purchase Agreement, Assignor hereby sells, transfers and conveys to Assignee all of Assignor's right, title and interest in and to the Purchased Assets.

2. Purchased Assets. Assignor hereby agrees to cooperate with Assignee as reasonably necessary to give full effect to and perfect the rights of Assignee in the Purchased Assets, and Assignor agrees to execute and deliver, at the Assignee's sole cost and expense including Assignor's costs, expenses and reasonable attorney's fees, affidavits, statements of use, testimonies, declarations, oaths, samples, exhibits, specimens and other documentation as may be reasonably necessary to effect the terms of this Agreement and to assure that the sale, transfer and conveyance of the Purchased Assets, is properly recorded at any appropriate administrative agency or registry, including but not limited to, the applicable trademark offices.

3. Assignment of Purchased Assets. Effective as of 11:59 p.m., New York time, on the Closing Date (the "**Effective Time**"), pursuant to, and upon the terms and subject to the conditions set forth in, the Asset Purchase Agreement, (a) Assignor hereby assigns to Assignee all of Assignor's right, title and interest in and to the Purchased Assets, (b) Assignee hereby assumes all duties and obligations of Assignor under the Purchased Assets arising only in respect of periods from and after the Closing Date, and (c) Assignee hereby agrees to honor, perform and discharge all duties and obligations of Assignor under the Purchased Assets, and to indemnify and hold Assignor and its Affiliates harmless from Damages arising in connection with such duties and obligations in accordance with, and subject

to, the terms of the Asset Purchase Agreement.

4. Assumption of Assumed Liabilities. Without limiting the terms of Section 1 and 3, effective as of the Effective Time, pursuant to and upon the terms and subject to the conditions set forth in the Asset Purchase Agreement, Assignee hereby assumes and agrees to pay, discharge or perform, as appropriate, the Assumed Liabilities and to indemnify and hold Assignor and its Affiliates harmless from Damages arising under the Assumed Liabilities in accordance with, and subject to, the terms of the Asset Purchase Agreement.

5. Further Assurances. Assignor hereby covenants and agrees to promptly execute and deliver to Assignee such other and further instruments of assignment and all such notices and other documents as may be reasonably necessary or desirable to more fully assign and vest in Assignee all right, title and interest in and to the Purchased Assets.

6. No Limitation on Rights or Obligations. This Agreement, being further documentation of the sales, conveyances, assignments and transfers provided for in the Asset Purchase Agreement, does not limit or modify the rights or obligations of the Parties therein provided. The Asset Purchase Agreement shall govern in the event of a conflict between the terms hereof and those set forth in the Asset Purchase Agreement.

7. Governing Law. The governing law provisions of the Asset Purchase Agreement shall apply to this Agreement as if set forth in full herein.

8. Section Headings. The headings of Sections in this Agreement are provided for convenience only and will not affect its construction or interpretation.

9. Entire Agreement. This Agreement, along with the Asset Purchase Agreement and the other Transaction Agreements, embodies the entire agreement between the parties hereto with respect to the transactions contemplated herein, and there have not been and there are no agreements, representations or warranties between the Parties other than those set forth or provided for in the Transaction Agreements.

10. Counterparts and Delivery. This Agreement may be executed in two or more counterparts, each of which will be deemed to be an original copy of this Agreement and all of which, when taken together, will be deemed to constitute one and the same agreement. Any signed counterpart of this Agreement may be delivered by facsimile or other form of electronic transmission (e.g., pdf), with the same legal force and effect as delivery of an originally signed agreement.


(SIGNATURE PAGE FOLLOWS)


TRADEMARK

REEL: 005466 FRAME: 0469


IN WITNESS WHEREOF, this Agreement has been executed on behalf of the Parties by their respective duly authorized officers, all as of the date first set forth above.

Eli Lilly and Company

By: 
Printed: PRESIDENT JEFF SUMMERS
Its: PRESIDENT

Witnessed By:
Signature: 

Name: Seth Cissna

Witnessed By:
Signature: 

Name: Kyle Montgomery

Nexcyon Pharmaceuticals, Inc.

By: _____
Printed: _____
Its: _____

Witnessed By:
Signature: _____

Name: _____

Witnessed By:
Signature: _____

Name: _____

[BILL OF SALE AND ASSIGNMENT AND ASSUMPTION AGREEMENT]

IN WITNESS WHEREOF, this Agreement has been executed on behalf of the Parties by their respective duly authorized officers, all as of the date first set forth above.

Eli Lilly and Company

By: _____
Printed: _____
Its: _____

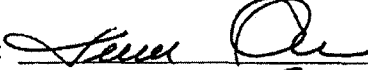
Witnessed By:

Signature: _____ Name: _____

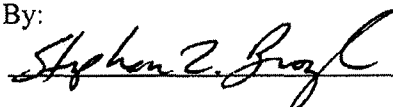
Witnessed By:

Signature: _____ Name: _____

Nexcyon Pharmaceuticals, Inc.

By: 
Printed: TERRENCE P. CLARK
Its: PRESIDENT

Witnessed By:

Signature:  Name: Stephen L. Broyles

Witnessed By:

Signature:  Name: IRENE Clark

[BILL OF SALE AND ASSIGNMENT AND ASSUMPTION AGREEMENT]

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "*Agreement*"), dated as of September 10, 2014 ("the *Execution Date*"), is entered into by and between Eli Lilly and Company, acting through its Elanco Animal Health division, 2500 Innovation Way, Greenfield, IN 46140, ("*Seller*"), and Nexcyon Pharmaceuticals, Inc., a Wisconsin corporation ("*Purchaser*"). Each Seller and Purchaser is sometimes referred to, individually, as a "*Party*" and, collectively, as the "*Parties*."

WHEREAS, Seller, is engaged in, among other things, the Business (as defined below);

WHEREAS, Purchaser is engaged in the research, development, marketing, manufacturing and distribution of food chain and companion animal products;

WHEREAS, Seller wishes to sell to Purchaser or one or more of its Affiliates, and Purchaser wishes to purchase, or cause its Affiliates to purchase, from Seller all right, title and interest in and to the Purchased Assets (as defined below), all upon the terms and subject to the conditions set forth herein; and

NOW, THEREFORE, in consideration of the premises and mutual covenants, agreements and provisions herein contained, and intending to be legally bound, the parties hereto agree as follows:

ARTICLE 1

DEFINITIONS

1.1 *Definitions.* All capitalized terms used in this Agreement shall have the meanings specified in this Section 1.1 or elsewhere in this Agreement, as applicable. The following terms shall have the meanings set forth below for the purposes of this Agreement:

"*Action*" means any claim, action, suit, demand, arbitration, inquiry, proceeding or investigation by or before any Governmental Authority or arbitral or similar forum.

"*Affiliate*" means, with respect to any Person, as of any point in time and for so long as the relationship continues to exist with respect to that Person, or any other Person controlled by, controlling, or under common control with that Person. For this purpose, control means having (i) direct or indirect beneficial ownership of more than 50% of the voting stock (or equivalent) of a Person, (ii) the right to direct, appoint or remove a majority of the members of its board of directors (or equivalent), or (iii) the power to control the general management of that Person by contract, law or otherwise. Notwithstanding the foregoing, Affiliate shall not include Persons in which a party or its Affiliates holds a majority of the ordinary voting power to elect a majority of the board of directors or other governing body, but is restricted from electing that majority by contract or otherwise, until such time as those restrictions are no longer in effect.

"*Agreement*" has the meaning set forth in the introductory paragraph of this Agreement.

"*Assets*" of any Person means assets, rights and properties of any kind, nature, character and description (whether real, person or mixed, whether tangible or intangible, whether absolute, accrued, contingent, fixed or otherwise and wherever situated), including the goodwill related thereto, operated, owned or leased by such Person, including inventory, goods and intellectual property.

TRADEMARK

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"Material Adverse Effect" means any development, fact, circumstance, change or effect, individually or in the aggregate, that is materially adverse to (i) the Seller's ability to perform its obligations under this Agreement or to consummate the Transaction or (ii) the assets, liabilities, results, condition (financial or otherwise) or operations (or results thereof) of the Business, the Purchased Assets and/or Assumed Liabilities, but shall exclude any event, change, condition or circumstance resulting or arising from: (a) changes in the general economic or political conditions in any country in which any part of the Business is conducted, or events, changes, conditions or circumstances affecting the industries in which the Business is conducted, (b) any changes in Law, and/or (c) any circumstance, event, change or condition that results from any action taken pursuant to or in accordance with this Agreement or at the request of the Purchaser.

"Patents" means patents, patent applications, utility models, utility model applications, petty patents, design patents, and certificates of invention and patent disclosures, together with all reissues, continuations, continuations-in-part, divisions, revisions, extensions, restorations, and reexaminations thereof that are Controlled by Seller and currently, historically, or in connection with the manufacturing, distribution, marketing, promoting, offering for sale, or selling of the Products, if any.

"Person" means any individual, corporation, partnership, limited partnership, joint venture, limited liability company, trust or unincorporated organization or Governmental Authority or any other entity.

"Product" means each of the products set forth on Schedule 1.1(a), and collectively are referred to as the *"Products"*.

"Product Records" means all books, files, documents, records, memoranda and other documentation, which are in the possession as of the Execution Date or thereafter and Control of the Seller, including all reports, tapes, forecasts, regulatory filings, regulatory files, correspondence with Governmental Authorities, operating data and plans, technical documentation, working papers, distributor and supplier lists, call data, sales distribution history, call notes, marketing studies, product insert sheets, consultant reports, distributor databases, correspondence (excluding invoices), complaint files and adverse event files related to the Products or Business.

"Promotional Materials" means the written content and data of the product bulletins, technical bulletins, detail aids, advertisements, market support data, and technical presentations of Seller related exclusively to the Products, which shall be transferred and conveyed to Purchaser, inclusive of the Copyrights therein. For the avoidance of doubt, the definition of Promotional Materials does not include Seller Brands.

"Purchase Price" has the meaning set forth in Section 3.1.

"Purchased Assets" has the meaning set forth in Section 2.1 and as set forth on Schedule 1.1(c).

"Purchased Product Records" means all Product Records, inclusive of Copyrights therein, which are used exclusively or maintained exclusively in connection with the Business; provided, however, that Seller may retain (and the following shall be deemed Confidential Information for the purposes of Section 9.1): (i) for a period of seven (7) years after the Closing Date, a copy of such books and records to the extent necessary for Tax, accounting, claim or litigation purposes and (ii) a copy of such books and records to the extent necessary for regulatory or reporting requirements, including, without limitation, books, ledgers, files, documents, correspondence, specifications, computer programs, records and storage media and business records, product registrations, marketing and sales records, plans

and data, promotional material, label and shipping carton dies, designs, artwork, photography, mechanical art and graphic materials. For the avoidance of doubt, any Product Record protected by attorney work product or attorney-client privilege, shall be excluded from the definition of Purchased Product Records.

"Purchaser" has the meaning set forth in the introductory paragraph of this Agreement.

"Purchaser Proprietary Information" has the meaning set forth in Section 9.1.

"Seller" has the meaning set forth in the introductory paragraph of this Agreement.

"Seller Brands" means any corporate marks, servicemarks, trademarks, housemarks, tradenames, and trade dress owned or licensed to, and used by the Seller on the labeling and packaging of the Products as of the Closing Date, other than the Transferred Trademarks.

"Tax" or *"Taxes"* means any and all taxes, assessments, levies, tariffs, duties or other charges or impositions in the nature of a tax (together with any and all interest, penalties, additions to tax and additional amounts imposed with respect thereto) imposed by any Governmental Authority.

"Tax Returns" means any report, return (including any information return), claim for refund, election, estimated Tax filings or payment, request for extension, document, declaration or other information or filing required to be supplied to any Governmental Authority with respect to Taxes, including attachments thereto and amendments thereof.

"Third Party Claim" has the meaning set forth in Section 10.4.

"Third Party(ies)" means any Person other than the Parties or their respective Affiliates.

"Trademarks" means trademarks, service marks, trade names, corporate names, domain names and other source identifiers, and registrations and applications for registration thereof, including all extensions, modifications and renewals of same, which are Controlled by Seller and currently or historically used in connection with Seller's distribution, marketing, promoting, offering for sale or selling of the Products.

"Transaction" means the transactions contemplated by this Agreement.

"Transfer Taxes" means any and all transfer, documentary, sales, use, stamp, registration, value added, recording and other similar taxes and fees (including any penalties and interest resulting from Purchaser's failure to timely file Tax Returns) incurred in connection with the Transaction described in Section 2.1. For the avoidance of doubt, such term shall exclude any income tax or tax on profits and gains imposed on Seller.

"Transferred Copyrights" means the Copyrights that, as of the date of this Agreement are owned by Seller and used exclusively in the Purchased Assets. For purposes of clarity, Transferred Copyrights shall not include any trade dress, packaging designs, or other rights of Seller currently used by Seller in conjunction with products or services other than the Products.

"Transferred Intellectual Property" means, collectively, the Transferred Copyrights, Transferred Trademarks, and Transferred Know-How.

"Transferred Know-How" means the Know-How that, as of the date of this Agreement, is owned by Seller and used exclusively in the Purchased Assets.

“*Transferred Trademarks*” means the Trademarks listed on Schedule 1.1(b). For purposes of clarity, Transferred Trademarks shall not include any Trademarks currently used by Seller in conjunction with products or services other than the Products.

“*USDA*” means the United States Department of Agriculture or any successor agency thereto.

ARTICLE 2

PURCHASE AND SALE

2.1 *Transfer of Purchased Assets.* On the Closing Date, on the terms and subject to the conditions contained in this Agreement and in consideration of the Purchase Price paid to Seller by Purchaser, Seller will sell and assign to Purchaser, free and clear of all Encumbrances, and Purchaser will purchase, acquire, and assume from Seller, all of assets, rights and business of the Seller, tangible or intangible, wherever located, exclusively regarding the Products and necessary to carry on the Business, including, without limitation, the following assets (collectively, the “*Purchased Assets*”):

- (a) the Transferred Intellectual Property;
- (b) the assets, rights and business with respect to the Products, if any.
- (c) the Purchased Product Records and Promotional Materials; and
- (d) all goodwill and going concern value and all other intangible properties of the Purchased Assets.

2.2 *Excluded Assets.* Notwithstanding anything to the contrary in this Agreement, (i) Purchaser shall not purchase or otherwise acquire, and the Purchased Assets shall not include, any right, title and interest in or to any assets, properties, rights or interests or the Inventory, other than those specifically listed or described in Section 2.1, and (ii) Seller will not assign, and the Purchased Assets do not include, any right, title and interest in or to any assets, properties, rights or interests or the Inventory, other than those specifically listed or described in Section 2.1.

2.3 *Assumed Liabilities.* On the Closing Date, Purchaser shall assume and pay, perform or otherwise discharge, in accordance with their respective terms and subject to the respective conditions thereof, only the following Liabilities, (collectively, the “*Assumed Liabilities*”):

- (a) any Liability, but only to the extent arising on or after the Closing Date, of (i) any Purchased Asset; (ii) the ownership by Purchaser of any Purchased Asset; or (iii) the realization of the benefit of any Purchased Asset;
- (b) any Liability, but only to the extent arising on or after the Closing Date, arising out of the sale of any Product by Purchaser on or after the Closing Date; and
- (c) Purchaser’s obligations under this Agreement.

2.4 *Excluded Liabilities.* Seller shall retain and shall be responsible for paying, performing and discharging when due, and other than the Assumed Liabilities, Purchaser shall not assume responsibility for, any Liabilities of Seller, including (without limitation) the following Liabilities (collectively, the “*Excluded Liabilities*”):

SCHEDULE 1.1(b)

TRANSFERRED TRADEMARKS

Mark Name	Country	Applica tion Date	Application Number	Registration Date	Registration Number	Renewal Date	Status
BOND	Australia ¹	21-May-07	1177577	21-May-07	1177577	21-May-17	Registered
BOND	Canada ¹	18-May-07	1348068	06-Aug-10	TMA773880	06-Aug-25	Registered
BOND	Great Britain ¹	21-May-07	2456203	28-Mar-08	2456203	21-May-17	Registered
BOND	Japan ¹	21-May-07	2007-050163	23-Jan-09	5199219	23-Jan-19	Registered
BOND	Norway ¹	21-May-07	200705700	01-Nov-07	241847	01-Nov-17	Registered
BOND	Switzerland ¹	21-May-07	55400/2007	18-Sep-07	562.488	21-May-17	Registered
BOND	United States	21-Nov-06	77048513	06-Jan-09	3558049	06-Jan-19	Registered
BOND	Community Trademark ¹	21-May-07	5962071	17-Apr-08	5962071	31-May-17	Registered
RECONCILE	Australia ³	16-Feb-04	989184	13-Feb-04	989184	16-Feb-14	Registered
RECONCILE	Bulgaria ¹	25-Jan-07	93402	07-Nov-08	67611	25-Jan-17	Registered
RECONCILE	Canada	20-Jul-04	1224245	04-Aug-10	TMA773678	04-Aug-25	Registered
RECONCILE	Great Britain ¹	25-Jan-07	2444689	27-Jul-07	2444689	25-Jan-17	Registered
RECONCILE	Japan ^{1,2}	16-Feb-04	2004-013182	17-Sep-04	04804573	17-Sep-14	Registered
RECONCILE	Norway ¹	24-Jan-07	2007 00902	15-Jun-07	239684	15-Jun-17	Registered
RECONCILE	Romania ¹	25-Jan-07	M 2007 00765	25-Jan-07	83694	25-Jan-17	Registered
RECONCILE	Switzerland ¹	25-Jan-07	50951/2007	01-May-07	557.081	25-Jan-17	Registered
RECONCILE	United States	11-Feb-04	78366279	06-Nov-07	3330512	06-Nov-17	Registered
RECONCILE	Community Trademark	18-Feb-04	3677416	08-Jul-05	3677416	29-Feb-24	Registered
RECONCILE IN KATAKANA	Japan ^{1,2}	26-Feb-04	2004-017615	08-Oct-04	04809586	08-Oct-14	Registered
RECONCILE IN KATAKANA	Japan ¹	07-Aug-08	2008-065053	19-Mar-09	5215525	19-Mar-19	Registered

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