STATE SETTLEMENT AGREEMENT AND RELEASE

I. PARTIES

This Settlement Agreement and Release ("Agreement") is entered into between the State of Michigan ("the State") and Eli Lilly and Company ("Eli Lilly"). The State and Eli Lilly are hereinafter collectively referred to as "the Parties".

II. PREAMBLE

As a preamble to this Agreement, the Parties agree to the following:

A. At all relevant times, Eli Lilly, an Indiana corporation with its principal place of business in Indianapolis, Indiana, distributed, marketed and sold pharmaceutical products in the United States, including a drug sold under the trade name of Zyprexa.

B. Robert Rudolph ("Rudolph"), Hector Rosado ("Rosado"), and Robert Evan Daywitt ("Daywitt") filed a qui tam action in the United States District Court for the Eastern District of Pennsylvania captioned United States of America ex rel. Robert Rudolph, et al., v. Eli Lilly and Company, Civil Action No. 03-943. On August 13, 2003, Rudolph, Rosado and Daywitt filed a first amended complaint, adding relators Bradley Lutz and James Wetta. A second amended complaint was filed on September 27, 2007, adding relator William Lofing.

C. Joseph Faltaous ("Faltaous") filed a qui tam action in the United States District Court for the Eastern District of New York captioned United States of America ex rel. Joseph Faltaous v. Eli Lilly and Company, Civil Action No. 05-1471. That action was transferred to the Eastern District of Pennsylvania as Civil Action No. 06-2909.

D. Steven Woodward ("Woodward") filed a qui tam action in the United States District Court for the Eastern District of Pennsylvania captioned United States ex rel. Steven

Woodward v. Dr. George B. Jerusalem, Tesse Jerusalem, Bay Psychiatric Services, and Eli Lilly, Civil Action No. 06-5526.

E. Jaydeen Vicente ("Vicente") filed a qui tam action in the United States District Court for the Eastern District of Pennsylvania captioned United States of America ex rel. Jaydeen Vicente v. Eli Lilly and Company, Civil Action No. 07-1791.

F. The *qui tam* actions identified in Paragraphs (B) through (E) will be referred to collectively as the "Civil Actions."

G. Eli Lilly has entered into a plea agreement with the United States Attorney for the Eastern District of Pennsylvania and the Office of Consumer Litigation of the Department of Justice and has agreed to plead guilty, pursuant to Fed. R. Crim. P. 11, to specific conduct described in a plea agreement to be filed in United States v. Eli Lilly and Company (the "Federal Criminal Action").

H. Eli Lilly has entered into a separate civil settlement agreement (the "Federal Settlement Agreement") with the United States (as that term is defined in the Federal Settlement Agreement).

I. The State contends that Eli Lilly caused to be submitted claims for payment to the State's Medicaid Program (Medicaid), 42 U.S.C. §§ 1396-1396(v).

J. The State contends that it has certain civil and administrative claims, as specified immediately below, against Eli Lilly for engaging in the following conduct concerning the marketing, promotion and sale of Zyprexa between September 1999 and December 31, 2005 ("the Covered Conduct"):

> Eli Lilly knowingly promoted the sale and use of Zyprexa to psychiatrists, other physicians (including primary care physicians), and other health care

professionals (collectively, "Health Care Professionals") for certain uses for which the Food and Drug Administration had not approved Zyprexa (i.e. "unapproved uses"); Eli Lilly implemented a marketing strategy to promote Zyprexa to Health Care Professionals, who treated patients of all ages, including children and adolescents, for unapproved uses; Eli Lilly also promoted Zyprexa to Health Care Professionals treating patients in long term care facilities for unapproved uses; Eli Lilly, through contact with Health Care Professionals, promoted the prescribing of Zyprexa in higher amounts than the recommended dose; the promotion of Zyprexa for these unapproved uses violated the Food Drug and Cosmetic Act, 21 U.S.C. §§ 331(a) and 21 U.S.C. § 352(f); Eli Lilly, in connection with its marketing and promotional efforts for Zyprexa, provided remuneration and other things of value to Health Care Professionals; and these unapproved uses were not medically accepted indications for which the State Medicaid programs approve reimbursement.

As a result of the foregoing alleged conduct, the State of Michigan contends that Eli Lilly knowingly caused false and/or fraudulent claims to be submitted to the Medicaid program of the State of Michigan for reimbursement of Zyprexa for these unapproved uses.

K. This Agreement is made in compromise of disputed claims. This Agreement is neither an admission of facts or liability by Eli Lilly nor a concession by the State that its claims are not well founded. Except for the specific conduct for which Eli Lilly is pleading guilty as described in the plea agreement filed in the Federal Criminal Action. Eli Lilly expressly denies the allegations of the State as set forth herein and in the Civil Actions and denies that it has engaged in any wrongful conduct in connection with the Covered Conduct. Neither this Settlement, its execution, nor the performance of any obligation under it, including any payment,

nor the fact of the settlement, is intended to be or shall be understood as an admission of liability or wrongdoing or other expression reflecting upon the merits of the dispute by Eli Lilly.

L. To avoid the delay, expense, inconvenience, and uncertainty of protracted litigation of these claims, the Parties mutually desire to reach a full and final settlement as set forth below.

III. TERMS AND CONDITIONS

NOW, THEREFORE, in reliance on the representations contained herein and in consideration of the mutual promises, covenants, and obligations set forth in this Agreement, and for good and valuable consideration as stated herein, the Parties agree as follows:

1. a. Pursuant to the separate Federal Settlement Agreement, Eli Lilly agrees to pay to the United States the sum of Four Hundred Thirty Eight Million, One Hundred Seventy One Thousand, Five Hundred Forty Three Dollars and Fifty Eight Cents ($438,171,543.58) plus accrued interest in an amount of 3% per annum from October 20, 2008 and continuing until and including the day of payment (the "Federal Settlement Amount"), and – pursuant to the terms of Paragraph III.1.b – agrees to pay to all of the States and the District of Columbia (which shall be defined, for purposes of this Agreement, as a State) Three Hundred Sixty One Million, Eight Hundred Twenty Eight Thousand, Four Hundred Fifty Six Dollars and Forty Two Cents ($361,828,456.42) plus accrued interest in the amount described in sub-paragraph III.1.b(ii) below, of which One Million, Four Hundred Thirty Three Thousand, Six Hundred Forty Two Dollars and Ninety Six Cents ($1,433,642.96) has already been paid to the State of Alaska pursuant to a separate settlement agreement. The amount of Three Hundred Sixty Million, Three Hundred Ninety Four Thousand, Eight Hundred Thirteen Dollars and Forty Six Cents ($360,394,813.46) shall be defined as the "Medicaid State Settlement Amount".

b. Pursuant to the Federal Settlement Agreement, payment shall be made to the States according to the following terms:

(i) No later than ten (10) business days following the date on which the Court accepts Eli Lilly's guilty plea in connection with the Federal Criminal Action and imposes the agreed-upon sentence (the "Account Establishment Date"), Eli Lilly shall deposit the Medicaid State Settlement Amount plus accrued interest in the amount of 3% per annum earned on that amount from October 20, 2008 to the Account Establishment Date into one or more interest-bearing money market or bank accounts that are held in the name of Eli Lilly but segregated from other Eli Lilly accounts (the "State Settlement Accounts").

(ii) From the State Settlement Accounts, Eli Lilly shall pay (through the mechanism described below involving the New York State Attorney General's National Global Settlement Account (the "NY State Account")) to each State (with the exception of Alaska, with which Eli Lilly has reached a separate agreement including this matter) that becomes a Medicaid Participating State (as that term is defined below) within the time limits established in subparagraph III.1.b(iv) below, that State's share of the Medicaid State Settlement Amount (as set forth in a communication from the National Association of Medicaid Fraud Control Units ("NAMFCU") to Eli Lilly counsel on January 13, 2009) (the "Individual State Share") plus accrued interest on that Individual State Share in the amount of 3% per annum from October 20, 2008 to the Account Establishment Date plus that State's pro rata share of interest accrued in the State Settlement Accounts from the day following the Account Establishment Date until the date that payment is made to the NY State Account. Eli Lilly shall execute a Medicaid State Settlement Agreement with any State that executes such an agreement; provided, however, that Eli Lilly reserves the right not to execute a Medicaid State Settlement Agreement with any State

that is engaged in litigation with Eli Lilly in a matter relating to Zyprexa. States with which Eli Lilly executes a Medicaid State Settlement Agreement in the form to which Eli Lilly and the NAMFCU have agreed, or in a form otherwise agreed to by Eli Lilly and an individual State, shall be defined as "Medicaid Participating States." Eli Lilly shall pay the aggregate amount that it owes to the States that become Medicaid Participating States within 60 days following the Account Establishment Date to the NY State Account, pursuant to written wire instructions provided by NAMFCU, on the 70th day following the Account Establishment Date or within two (2) business days following receipt by Eli Lilly of the written wire instructions, whichever is later.

(iii) Eli Lilly may, at its sole discretion, waive any rights that it has reserved in sub-paragraph III.1.b(ii) with respect to the payment of any of the Individual State Shares.

(iv) Except as otherwise provided in this sub-paragraph, absent Lilly's consent, no State may become a Medicaid Participating State if it has not executed a Medicaid State Settlement Agreement within 60 days following the Account Establishment Date. (A Medicaid Participating State shall be deemed to have become a Medicaid Participating State on the date on which it executed a Medicaid State Settlement Agreement.) If, on the 60th day following the Account Establishment Date, Eli Lilly is obligated pursuant to the terms of sub-paragraph III.1.b(ii) to pay to the NY State Account an aggregate amount less than the Medicaid State Settlement Amount, Eli Lilly shall be entitled to retain any such difference, commingle it with any other corporate funds, and use it for any purpose, and no State shall be entitled to any portion of that difference pursuant to the terms of this Agreement. In the event that there are twenty five (25) or more Medicaid Participating States by the 60th day following the Account Establishment Date, the deadline for becoming a Medicaid Participating State shall be extended

by 30 days, and Eli Lilly's rights pursuant to this sub-paragraph III.1.b(iv) shall accrue on the 90th day following the Account Establishment Date. In the event that the immediately foregoing clause is triggered, Eli Lilly shall pay the aggregate amount that it owes to the States that become Medicaid Participating States in the period from 61-90 days following the Account Establishment Date to the NY State Account, pursuant to written wire instructions provided by NAMFCU, on the 100th day following the Account Establishment Date or within two (2) business days following receipt by Eli Lilly of the written wire instructions, whichever is later.

c. The portion of the aggregate settlement described in this Agreement that is attributable to the State of Michigan is $26,469,931.86 plus applicable interest, consisting of a portion paid to the State under this Agreement and another portion paid to the Federal Government as part of the Federal Settlement Agreement. The individual portion of the Medicaid State Settlement Amount allocable to the State under this Agreement is the sum of $11,351,263.70, plus applicable interest.

2. Contingent upon the receipt of their appropriate portion of the Medicaid State Settlement Amount, the Medicaid Participating States agree to pay, as soon as feasible after such receipt, agreed-upon amounts that have been addressed via side letters to the Plaintiff-Relators in the Civil Actions.

3. Subject to the exceptions in Paragraph 4 below, and in consideration of the obligations of Eli Lilly set forth in this Agreement, conditioned upon receipt by the State of Michigan of its share of the Medicaid State Settlement Amount, and subject to Paragraph 12 below (concerning bankruptcy proceedings commenced within 91 days of the Effective Date of this Agreement or any payment under this Agreement), the State, on behalf of itself, and its officers, agents, agencies, political subdivisions, and departments, agrees to dismiss with

prejudice any claim against Eli Lilly for the Covered Conduct and release Eli Lilly, its predecessors and current and former parents, divisions, subsidiaries, successors, transferees, heirs, and assigns, and their current and former directors, officers, employees, and agents individually and collectively (collectively, the "Eli Lilly Released Entities") , from any civil or administrative monetary claim that the State, its officers, agents, agencies, political subdivisions, and departments have or may have for any claims submitted or caused to be submitted to the State Medicaid Program for the Covered Conduct. The State does not release Eli Lilly from any claims or actions which may be asserted by private payors or insurers, including those that are paid by the State's Medicaid program on a capitated basis.

4. Notwithstanding any term of this Agreement, the State specifically does not release any person or entity from any of the following claims or liabilities: (a) any criminal, civil, or administrative claims arising under state revenue codes; (b) any criminal liability not specifically released by this Agreement; (c) any civil liability that Eli Lilly has or may have under any state statute, regulation, or rule not covered by this Agreement; (d) any liability to the State (or any agencies thereof) for any conduct other than the Covered Conduct; (e) any claims based upon obligations created by this Agreement; (f) mandatory exclusion from the State's Medicaid program except for mandatory exclusion based on the Covered Conduct or for the conviction in the Federal Criminal Action; (g) any express or implied warranty claims or other claims for defective or deficient products and services provided by Eli Lilly; (h) any claims for personal injury or property damage or for other consequential damages arising from the Covered Conduct; or (i) any claims based on a failure to deliver items or services due.;

5. This Agreement is expressly conditioned upon resolution of the Federal Criminal Action. In consideration of the acceptance of Eli Lilly's plea of guilty in the Federal Criminal

Action, the State's Medicaid Fraud Control Unit ("MFCU") agrees that it shall not further criminally investigate, prosecute, or refer for prosecution or criminal investigation to any agency Eli Lilly, its present and former parents, divisions, and subsidiaries and their predecessors, successors and assigns for claims or allegations for the Covered Conduct.

6. In consideration of the obligations of Eli Lilly set forth in this Agreement, and the Corporate Integrity Agreement ("CIA") that Eli Lilly has entered into with the Office of the Inspector General of the United States Department of Health and Human Services ("HHS-OIG") in connection with this matter, and conditioned on receipt by the State of Michigan of its share of the State Medicaid Settlement Amount, except as reserved in Paragraph 4 above and subject to Paragraph 12 below (concerning bankruptcy proceedings commenced within 91 days of the Effective Date of this Agreement or any payment under this Agreement), the State agrees to release and refrain from instituting, recommending, directing, or maintaining any administrative claim or any action seeking exclusion from the State's Medicaid program against the Eli Lilly Released Entities for the Covered Conduct or for the conviction in the Federal Criminal Action. Nothing in this Agreement precludes the State from taking action against Eli Lilly in the event that Eli Lilly is excluded by the federal government, or for conduct and practices other than the Covered Conduct or the conviction in the Federal Criminal Action.

7. The Eli Lilly Released Entities waive and shall not assert any defenses they may have to criminal prosecution or administrative action relating to the Covered Conduct, which defenses may be based in whole or in part on a contention that, under the Double Jeopardy Clause of the Fifth Amendment of the Constitution or the Excessive Fines Clause of the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action.

8. In consideration of the obligations of the State set forth in this Agreement, the Eli Lilly Released Entities waive and discharge the State, its agencies, political subdivisions, employees, servants, and agents from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) which the Eli Lilly Released Entities have asserted, could have asserted, or may assert in the future against the State, its agencies, political subdivisions, employees, servants, and agents, arising from the State's investigation and prosecution of the Covered Conduct.

9. The amount that Eli Lilly must pay to the State pursuant to Paragraph 1 above will not be decreased as a result of the denial of claims for payment now being withheld from payment by the State's Medicaid program, or any other state payor, for the Covered Conduct; and, if applicable, Eli Lilly agrees not to resubmit to the State's Medicaid program or any other state payor, any previously denied claims, which denials were based on the Covered Conduct, and agrees not to appeal or cause the appeal of any such denials of claims.

10. Eli Lilly shall not seek payment for any of the claims for reimbursement to Medicaid covered by this Agreement from any health care beneficiaries or their parents, sponsors, legally responsible individuals, or third party payors.

11. Eli Lilly expressly warrants that it has reviewed its financial condition and that it is currently solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(B)(ii)(I), and shall remain solvent following payment of the Federal Settlement Amount and compliance with sub-paragraphs III.1.b(i), (ii), and (iv) of the Federal Settlement Agreement. Further, the Parties expressly warrant that, in evaluating whether to execute this Agreement, the Parties (a) have intended that the mutual promises, covenants, and obligations set forth herein constitute a contemporaneous exchange for new value given to Eli Lilly within the meaning of 11 U.S.C. §

547(c)(1), and (b) have concluded that these mutual promises, covenants and obligations do, in fact, constitute such a contemporaneous exchange.

12. In the event Eli Lilly commences, or another party commences, within 91 days of the Effective Date of this Agreement or any payment made hereunder, any case, proceeding, or other action under any law relating to bankruptcy, insolvency, reorganization, or relief of debtors (a) seeking to have any order for relief of Eli Lilly's debts, or seeking to adjudicate Eli Lilly as bankrupt or insolvent, or (b) seeking appointment of a receiver, trustee, custodian or other similar official for Eli Lilly or for all or any substantial part of Eli Lilly's assets, Eli Lilly agrees as follows, to the extent consistent with applicable law:

a. Eli Lilly's obligations under this Agreement may not be avoided pursuant to 11 U.S.C. §§ 547 or 548, and Eli Lilly shall not argue or otherwise take the position in any such case, proceeding or action that: (i) Eli Lilly's obligations under this Agreement may be avoided under 11 U.S.C. §§ 547 or 548; (ii) Eli Lilly was insolvent at the time this Agreement was entered into, or became insolvent as a result of the payment made to the State hereunder; or (iii) the mutual promises, covenants, and obligations set forth in this Agreement do not constitute a contemporaneous exchange for new value given to Eli Lilly.

b. If Eli Lilly's obligations under this Agreement are avoided for any reason, including, but not limited to, through the exercise of a trustee's avoidance powers under the Bankruptcy Code, the State, at its sole option, may rescind the releases provided in this Agreement, and bring any civil and/or administrative claim, action or proceeding against Eli Lilly for the claims that would otherwise be covered by the releases provided in this Agreement. If the State chooses to do so, Eli Lilly agrees that for purposes only of

any claims, actions or proceedings referenced in this first clause of this Paragraph, any such claims, actions, or proceedings brought by the State (including any proceedings to exclude Eli Lilly from participation in the State's Medicaid program) are not subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a) as a result of the action, case, or proceeding described in the first clause of this Paragraph, and that Eli Lilly shall not argue or otherwise contend that the State's claims, actions, or proceedings are subject to an automatic stay; Eli Lilly shall not plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any such civil or administrative claims, actions, or proceedings which are brought by the State within 90 calendar days of written notification to Eli Lilly that the releases herein have been rescinded pursuant to this Paragraph, except to the extent such defenses were available before June 24, 2005; and the State has a valid claim against Eli Lilly in the amount of its share of the Medicaid State Settlement Amount plus applicable multipliers and penalties and it may pursue its claims, *inter alia*, in the case, action, or proceeding referenced in the first clause of this Paragraph, as well as in any other case, action or proceeding; and Eli Lilly acknowledges that its agreements in this Paragraph are provided in exchange for valuable consideration provided in this Agreement.

13. The Parties each represent that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

14. Except as expressly provided to the contrary in this Agreement, each Party to this Agreement shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

15. Except as otherwise stated in this Agreement, this Agreement is intended to be for the benefit of the Parties only, and by this instrument the Parties do not release any claims against any other person or entity.

16. Nothing in this Agreement constitutes an agreement by the State concerning the characterization of the amounts paid hereunder for purposes of the State's revenue code.

17. In addition to all other payments and responsibilities under this Agreement, Eli Lilly agrees to pay all reasonable travel costs and expenses of the NAMFCU Negotiating Team. Eli Lilly will pay this amount by separate check or wire transfer made payable to the National Association of Medicaid Fraud Control Units after the Medicaid Participating States execute their respective Agreements or as otherwise agreed by the Parties.

18. This Agreement is governed by the laws of the State of Michigan [the signatory state].

19. The undersigned Eli Lilly signatories represent and warrant that they are authorized as a result of appropriate corporate action to execute this Agreement. The undersigned State signatories represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement on behalf of the State through their respective agencies and departments.

20. The "Effective Date" of this Agreement shall be the date of signature of the last signatory to this Agreement. Facsimiles of signatures shall constitute acceptable binding signatures for purposes of this Agreement.

21. This Agreement shall be binding on all successors, transferees, heirs, and assigns of the Parties.

22. This Settlement Agreement constitutes the complete agreement between the Parties with respect to this matter and shall not be amended except by written consent of the Parties.

23. This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which shall constitute one and the same Agreement.

STATE OF MICHIGAN

By: _____ Dated: 2/9/2009
[Name] Mark Matuszewski
[Title] AAG
OFFICE OF THE ATTORNEY GENERAL

By: Janet Olszewski, Director Dated: 1/23/09
[Name]
[Title]
Medicaid Program:

ELI LILLY AND COMPANY

By: _____ Dated: 5/4/09

Name: Michael J. Harrington
Title: Vice President and Deputy General Counsel
Eli Lilly and Company

By: _____ Dated: 5/1/09

Paul E. Kalb
Sidley Austin LLP
Counsel to Eli Lilly and Company

By: _____ Dated: _____

Thomas M. Gallagher
Pepper Hamilton, LLP
Counsel to Eli Lilly and Company

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ELI LILLY AND COMPANY

By: _____ Dated: _____
Name:
Title:
Eli Lilly and Company

By: _____ Dated: 5/1/09
Paul E. Kalb
Sidley Austin LLP
Counsel to Eli Lilly and Company

By: _____ Dated: 5/1/09
Thomas M. Gallagher
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