

General Conditions
for Lilly del Caribe, Inc.
MPT v3.3. Compliant September 18, 2013

Lilly

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Lilly del Caribe, Inc. General Conditions

Revised on September, 2013

Introduction and Scope

Section 1 **Titles**

- 1.1 The titles of the Sections of these General Conditions are for general information and reference only, and these General Conditions shall not be construed by reference to such titles.

Section 2 **Performance of the Services/Project**

- 2.1 The Contractor warrants to the Owner that the Services/Project shall be performed skillfully, carefully, and in a workmanlike manner (and to that extent that the Services/Project includes professional services, in a sound professional manner) and that the Services/Project shall be carried out in accordance with, and when completed shall conform to, the Contract Documents, all Applicable Laws including Commonwealth of Puerto Rico, and Federal laws, rules, regulations, and restrictions applicable to the Services/Project and/or to the Owner's property. If any portion of the Services/Project is performed contrary to the Contract Documents or Applicable Laws, the Contractor, at his own expense, shall make such correction as necessary to cause the Service/Project to conform thereto.

2.2 Changes in the Services/Project

- 2.2.1 GMP Service Providers. The Contractor must notify Owner of changes in the process, equipment, test method, storage site, Specifications, site changes or other contractual requirements. Changes should not be made unless Owner is informed and approves the changes.
- 2.2.2 Changes. The Owner may from time to time, by written instructions to the Contractor, make changes in the Services/Project consisting of additions, deletions, or other revisions. The Contractor shall not initiate any changes, except upon written order signed by the Owner. All such changes shall become a part of the Services/Project and shall be executed pursuant to applicable provisions of the Contract Documents, and the Contract Sum shall be adjusted as set forth in this section. Any change in the Contract Sum resulting from changes in the Services/Project shall be deemed to fully compensate the Contractor for the change in the Services/Project and the Contractor expressly waives any right to make a later claim for increased costs, including any claim for loss of efficiency or as a result of disruptions in the Services/Project.
- 2.2.3 Adjustment in Contract Sum. Adjustments in the Contract Sum resulting from a change in the Services/Project must be approved in writing by the Owner. If requested by the Owner, the Contractor will provide detailed supporting information regarding the quotation, including, but not limited to, material and labor quantity and related pricing information and extensions. If the quotation is acceptable to the Owner, the Owner will issue a Change Order. Changes in the Services/Project can only be initiated by the Contractor after a Change Order is issued by the Owner.
- 2.2.4 For each change, the Contractor shall keep and present, in such form as the Owner may prescribe, an itemized accounting and appropriate supporting data. A Change Order will be issued by the Owner to the Contractor authorizing the Contractor to proceed with the change in the Services/Project on the agreed upon basis. After all work is completed, the

Contractor shall furnish a summary of the total charges and supporting information as defined in the Specifications. Upon acceptance by the Owner, the total charges will then be included as a separate item in a price Change Order.

- 2.2.5 When so requested by the Owner to accelerate the established completion date for the Services/Project, the Contractor shall work overtime. The Contractor shall be reimbursed by the Owner pursuant to this provision for the premium portion of such overtime cost, except that: (i) in no event shall the Contractor be paid any percentage mark-up on the premium portion of such overtime; and (ii) in no event shall the Contractor be reimbursed for the premium portion of such overtime if the overtime work was required to assure compliance with the schedule established pursuant to the Contract Documents.

Contractor's Rights and Obligations

Section 3 **Contractor's General Obligations**

3.1 **Contractor's Review of Conditions, Examination of the Job Site**

- 3.1.1 The Contractor represents that he has examined the Contract Documents and has satisfied himself as to their adequacy for the complete performance of the Services/Project and that he will perform the services as agreed in the Contract Documents; that he is fully aware of work to be performed by other contractors in connection with the Services/Project and elsewhere on the Job Site; and that he is experienced and competent to perform and complete the Services/Project.
- 3.1.2 The Contractor acknowledges that he is in a better position than the Owner to recognize and appreciate hazards and risks that are peculiar to the trades involved in the performance of the Services/Project. The Contractor assumes all the risks and hazards in connection with the foregoing conditions and, regardless of such risks, hazards and conditions and notwithstanding any variances between actual conditions and the conditions as shown or represented in the Contract Documents, the Contractor agrees that he will complete the Services/Project for the Contract Sum (except in those instances, and only those instances, wherein there is an express provision in the Contract for payment or allowance to him of additional compensation) notwithstanding the fact that certain provisions in the Contract Documents do not expressly stipulate that the Contractor shall assume certain responsibilities, make certain payments, do certain work, or perform certain acts "at its own expense", "at no additional cost to the Owner", or other qualifying phrases to that effect.
- 3.1.3 In the event that any Services/Project are to be performed at the Job Site, the Contractor represents that he has thoroughly examined the Job Site and informed himself fully regarding the conditions under which he will be obligated to operate or that in any way may affect the Services/Project and knows, understands, and accepts the existing conditions, and shall have an ongoing obligation to conduct any further inspections during the performance of Services/Project at the Job Site. No later claim for extra compensation will be allowed which is due to error or negligence on the part of the Contractor in this respect. The Owner shall be deemed to have warned the Contractor of all risks and hazards relevant to the performance of the Services/Project on the Job Site. The Contractor shall have the duty to inform its employees and Subcontractors of risks and hazards at the Job Site.
- 3.1.4 The foregoing provisions shall govern not only the Services/Project required by the Agreement or Contract, but any and all subsequent changes in the Services/Project that may be authorized, in writing, by the Owner.

3.2 **Subcontractors**

- 3.2.1 Contractor shall not subcontract any performance of the Agreement or Contract to any party that is on the Specialty Designated Nationals and Blocked Persons List available at <http://www.ustreas.gov/offices/enforcement/ofac/> maintained by the U.S. Treasury Department's Office of Foreign Assets Control or to any party who is located in or has its principal place of business in a country subject to economic sanctions maintained by the U.S. Treasury Department's Office of Foreign Asset Controls (as of 1 November 2010, Iran, Sudan and Cuba).
- 3.2.2 Approval by Owner. The Contractor shall furnish for the Owner's approval a list of Subcontractors to be used in the performance of the Services/Project. The Contractor shall not employ any Subcontractors not approved by the Owner.
- 3.2.3 The Contractor may delegate to Subcontractors the responsibility for performance of the Services/Project including safety obligations; provided, however, any such delegation shall not relieve the Contractor of his obligations to the Owner and shall be restricted by the limitations provided in the section Safety, Security and Environmental.
- 3.2.4 Responsibility of Contractor for the Work of Subcontractors. The Contractor shall be as fully responsible to the Owner for the portions of the Services/Project performed by the Subcontractors, and for the acts and omissions of his Subcontractors and of persons either directly or indirectly employed by them, as he is for acts and omissions of persons directly employed by him for any portion of the Services/Project. Contractor shall be responsible that Subcontractors fully comply with all the agreements and obligations pursuant to the Contract Documents. The approval by the Owner of the selection of Subcontractors shall not relieve the Contractor from any responsibility and/or obligation. The Contractor shall be responsible for the safety of the Subcontractor employees.
- 3.2.5 No Contractual Relation with Owner. Nothing contained in the Agreement or Contract shall create a contractual relation between any Subcontractor and the Owner. The Owner shall not have any obligation to pay, or to see that the Contractor pays, any Subcontractor, except as may otherwise be expressly required by law.
- 3.2.6 In the event it appears to Owner that invoices incurred in the performance of the Work are not being currently paid, Owner may take such action as it deems necessary to insure that the money paid with any progress payment will be utilized to pay such invoices.
- 3.2.7 Each Subcontract shall provide that, in an event of termination or cancellation of the Agreement or Contract by Owner, the Subcontracts shall be assigned to Owner with prior written consent of Owner or another contractor designated by Owner at Owner's request, consent and approval, and that, in the event of such an assignment, Owner or such other contractor shall not be liable for payments due to Subcontractors there under prior to the date of the assignment to Owner or such other contractor.

3.3 **Labor Furnished by the Contractor**

- 3.3.1 All persons employed by the Contractor in the performance of the Services/Project are employees of the Contractor and not of the Owner and shall be carried on the payrolls of the Contractor and shall be paid by the Contractor. The Contractor shall also make payments to Commonwealth of Puerto Rico and Federal authorities covering all payroll taxes and other taxes relating to such persons, and shall make all other payments relating to such persons, such as welfare and pension funds, required by labor union contracts.

- 3.3.2 Every Contractor that has employees offering services to the Owner must do drug testing for controlled substances on their employees and candidates for employment. The testing must comply with the provisions of the Law Number 59 of August 8, 1997 known as the Law to Regulate the Testing for Controlled Substances in the Private Labor Sector, as amended from time to time, and any other law, regulation or court determination
- 3.3.3 Owner hereby informs Contractor that it has a grant of industrial tax exemption issued by the Commonwealth of Puerto Rico requiring it to comply with certain amount of employment level. As part of that requirement, Owner is allowed to, and will include and claim Contractor's employees engaged in any services for the benefit of Owner. Contractor agrees to refrain from claiming such Contractor's employees in compliance with any similar employment level requirement. Should there be any challenge by any Government Agency as to Owner's and/or Contractor's claim, including but not limited as to double counting of Contractor's employees, Owner's claim will prevail.

3.4 **Delays and Extensions of Times**

- 3.4.1 As used in this section, and elsewhere in the Contract Documents, the term "Delays" shall mean hindrances or delays, whether avoidable or unavoidable.
- 3.4.2 The Contractor agrees to assume all risks of Delays in the progress, performance, and completion of the Services/Project under the Agreement or Contract and agrees that it shall have no right remedy for Delays except only Delays as the result of, or on account of, the specific causes set forth in the succeeding paragraph. With respect to those specific causes, the only remedy available to the Contractor shall be an extension of time for completion of the Services/Project equal to that period of time lost as a direct result of such Delays.
- 3.4.3 If the progress, performance, or completion of any portion or portions or the whole of the Services/Project is delayed as the result of fire, flood, cyclone, hurricane, tornado, earthquake, or other similar catastrophe, or as the result of strikes, war, insurrection, riot or civil commotion, or by governmental act or regulation, or on account of any act or omission of others engaged by the Owner or on account of any act or omissions of the Owner, the Contractor may request an extension of the time for completion of the portion or portions of the Services/Project directly affected by the Delay for a period equivalent to the time lost by the Delay subject to approval by Owner and the procedure detailed in the following sections.
- 3.4.4 No extension of time shall be granted for Delays on account of, or resulting from, weather conditions except only for the catastrophic weather conditions mentioned in the preceding paragraph, or interruptions to or suspensions of his work to enable other contractors to perform their work.
- 3.4.5 Should the Contractor contend that it is entitled to an extension of time for completion of any portion or portions, or the whole of the Services/Project, under the provisions of this Section, it shall, within forty-eight (48) hours of the occurrence of the cause of the Delay notify the Owner in writing of his contention, setting forth: (a) the cause for the Delay, (b) a description of the portion or portions of the Services/Project affected thereby, and (c) any other pertinent information concerning the occurrence. The Contractor must make a subsequent written application to the Owner within forty-eight (48) hours after cause for the Delay has ceased to exist for the specific number of days of extension requested, including any information supporting the request for an extension of time.
- 3.4.6 Regardless of the cause of Delay and whether or not any extension of time may be granted by the Owner, the Contractor agrees that it shall continue to perform all Services/Project

not directly affected by the cause of Delay and, with respect to such portion or portions of the Services/Project as may be so affected, it shall take all reasonable measures to minimize the effect of the cause of Delay.

- 3.4.7 It is a condition precedent to the consideration of any claim for an extension of time that the requirements of the two preceding paragraphs be strictly adhered to in each instance and, if the Contractor fails to comply, it shall be deemed to have waived the claim.
- 3.4.8 Owner shall approve or deny the Contractor's claim for an extension of time. If the Owner approves the Contractor's request, the Owner shall approve or modify the number of days of such extension requested by the Contractor. The Contractor shall furnish all information requested by the Owner to assist the Owner in making his decision.
- 3.4.9 Whether or not any Delay shall be the basis for an extension of time, the Contractor agrees that it shall have no claims against the Owner for an increase in the Contract Sum and no claim against the Owner for a payment or allowance of any kind for damage, Loss or expense resulting from Delays, nor shall the Contractor have any claim for damage, Loss or expense resulting from interruptions to, or suspension of, his work to enable other contractors to perform their work.
- 3.4.10 Scheduling and Coordination:

The Contractor shall commence and complete the Services/Project in accordance with the sequencing and scheduling provisions of the Specifications or as otherwise directed by the Owner. The Contractor and all Subcontractors shall coordinate all Services/Project, one with the other, so as to facilitate the general progress of the Services/Project. The Owner shall have no duty, obligation, or responsibility to coordinate the Services/Project of the Contractor or Subcontractors, but may assist in the coordination efforts by convening or attending progress meetings.

3.5 **Owner Provided Equipment and Tools**

- 3.5.1 The Owner will not lend safety equipment to the Contractor, including personal and portable gas monitor, fall arrest equipment, and respirators, but the use of them will be required as needed.

However, the Owner may, for the convenience of the Contractor and upon agreement by Owner and Contractor, on an exception basis, facilitate to Contractor the proper personal protective equipment ("Equipment") required for the performance of the agreed and required tasks, as applicable. Under this exception, Owner will charge the Contractor an agreed amount for the provided Equipment; amount to be agreed by Owner and Contractor and may be applied and shown as a discount in the invoices submitted by Contractor for the Services/Project provided for the period in which the Equipment was provided. The Contractor must follow Owner's procedures to request the Equipment. The Contractor shall be solely responsible for the good condition and maintenance of the Equipment, inspecting the condition of the Equipment before its use, providing the required training to its employees regarding the adequate use of the Equipment, continuous inspections of the performance and adequate maintenance of the Equipment, as required, and securing the adequate use of the Equipment by its employees. Contractor agrees that its employees will exercise due care in the handling and use of the Equipment. Contractor hereby agree to hold harmless Owner from and against any and all liabilities, claims, expenses, fees and costs, demands and actions or causes of actions whatsoever, for any injury or death resulting from the use of the Equipment by its employees.

3.5.2 In the case that the Owner and Contractor agreed on the use of miscellaneous tools (“Tools”) as stated in this section, Owner will charge an amount to Contractor for the use of the Tools; such amount will be agreed by Owner and Contractor and may be applied and shown as a discount in the invoice submitted by Contractor for the Services/Project provided for the period in which the Tools were provided. The Contractor must follow Owner’s procedures to request the Tools. The Contractor shall be solely responsible for the good condition and maintenance of the Tools, inspecting the condition of the Tools before their use, continuous inspections of the performance and adequate maintenance of the Tools, as required, providing the required training to its employees regarding the adequate use of the Tools, and securing the adequate use of the Tools by its employees. Contractor agrees that its employees will exercise due care in the handling and use of the Tools. Contractor hereby agree to hold harmless Owner from and against any and all liabilities, claims, expenses, fees and costs, demands and actions or causes of actions whatsoever, for any injury or death resulting from the use of the Tools by its employees.

3.6 **Liens**

3.6.1 The Contractor agrees and warrants to the Owner that: (i) no notice of intention to hold a mechanics, suppliers’, material men’s, or any other type of statutory lien shall be filed against Owner's property; and (ii) no claim of personal liability of the Owner shall be served on Owner because of the failure of Contractor or a Subcontractor to pay its employees, suppliers or material men, or any Subcontractor.

3.6.2 Should such a lien notice be filed or claim of personal liability be served, amounts otherwise payable by the Owner to the Contractor under the Agreement or Contract (and, if Owner determines that amounts payable under the Agreement or Contract will not be adequate to satisfy such lien notice or claim, amounts otherwise payable to the Contractor under other agreements, whether or not related to the Services/Project) shall not be payable to the extent of the lien notice or amount claimed, until and unless the Contractor has delivered to the Owner a complete release of such lien notice or claim or a bond satisfactory to the Owner that will indemnify the Owner against such lien notice or claim.

3.7 **Permits, Licenses and Inspections**

The Contractor shall procure, at his own expense, all permits and licenses required for the performance of the Services/Project, shall submit to the Owner true and complete reproductions of such permits and licenses required for the performance of the Services/Project, and shall arrange for all required inspections

3.8 **Responsibility for Damage**

3.8.1 Protection. The Contractor shall protect his property and the property of the Owner and the other contractors from damage, injury or loss arising out of the performance of his Services/Project.

3.8.2 Damage. Should either party to the Agreement or Contract suffer damages because of any wrongful act or neglect of the other party or by any Subcontractor, claim shall be made in writing to the party claimed to be liable, and settlement shall be adjusted by agreement not later than final payment (without prejudice to the indemnification rights of each party under these General Conditions).

3.8.3 Contractor Responsibility. Notwithstanding the indemnification provisions of these General Conditions, as stated in section Indemnification should any contractor, or Subcontractor employed on the Project make claim or bring suit against the Owner for damages alleged to have been caused by the Contractor, the Contractor shall bear the costs

involved in such proceedings, including costs of investigation and settlement. If any judgment against the Owner arises there from, the Contractor shall pay or satisfy such judgment and pay all costs (including attorney's fees) incurred by the Owner.

3.9 **Correction of the Services/Project**

3.9.1 **Remedy of Defects.** For a period of one (1) year from the date of acceptance by the Owner, or within such longer period required by law or the Contract Documents, the Contractor shall remedy defects in the Services/Project performed, due to the following causes:

3.9.2 failure to comply with the Contract Documents;

3.9.3 failure to comply with applicable procedures;

3.9.4 failure to comply with existing regulations;

3.9.5 faulty materials, equipment, appliances, or other item; or

3.9.6 faulty workmanship.

3.9.7 **Other Remedies.** The remedies and warranties set forth in this section, establish the minimum remedy or warranty available to the Owner for defects in the performance of the Services/Project. If additional or more expansive remedies or warranties are provided by law, required by the Specifications or are provided by the Contractor in any written warranty, guarantee or undertaking, the Contractor shall be responsible for such additional or more expansive remedies or warranties. The Contractor expressly agrees that any limitations or restrictions contained in any warranty provided by the Contractor shall not apply to the extent it is more limited or restrictive than the remedies or warranties under this Section or the Specifications. All remedies and warranties shall be construed as cumulative and not as a limitation or restriction on any other remedy or warranty.

3.9.8 **Subcontractors.** The Contractor shall, for the protection of the Owner, obtain from all Subcontractors, warranties in substantially the same form as required by this General Conditions and the Specifications, and shall require that the Subcontractor and Contractor be jointly and severally responsible to the Owner for compliance with the warranties. However, nothing herein shall limit the Contractor's responsibility to the Owner for the portion of the Services/Project performed by Subcontractors.

Section 4 **Contractor's Representations and Warranties**

4.1 Contractor warrants that:

4.1.1 Contractor's performance under the Agreement or Contract and the Work shall comply with all Applicable Laws.

4.1.2 All Services/Project will be rendered with at least that degree of skill and knowledge normally possessed and employed by members of the relevant trade and profession in good standing in the jurisdiction where the Work is performed.

4.1.3 All Work, Services/Project, Deliverables, and materials shall comply with the Specifications and descriptions set forth in the Contract Documents and with any aspect of any sample, model or demonstration intended to represent the corresponding aspect of the Work.

4.1.4 The Work, Services/Project, Deliverables and Work Product shall not infringe the Intellectual Property Rights of any Person, and any use thereof by Owner consistent with the Project's intended purpose shall not infringe such rights.

- 4.1.5 Materials and equipment furnished under the Agreement or Contract will be new, merchantable, of the most suitable grade and fit for their intended purposes and shall comply in all respects with the Specifications and Applicable Laws.
- 4.1.6 The Work will be of good quality, free from faults, defects, errors and omission in construction and workmanship and will be performed in a good and workmanlike manner and in strict conformance with the Contract Documents.
- 4.1.7 Title to all work, materials and equipment covered by an invoice will pass to Owner either by incorporation in the construction or upon receipt of payment by Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances in favor of Contractor, Subcontractors or labor, material and equipment suppliers and that no Work, materials or equipment performed or furnished under the Agreement or Contract will have been acquired by Contractor or any Subcontractor subject to an agreement under which a security interest therein or an encumbrance or lien thereon is retained by the seller or otherwise imposed on Contractor or Subcontractor.

Section 5 **Reporting Adverse Events and Product Complaints**

- 5.1 Contractor will comply with all requirements of the version of Owner's procedures for reporting Adverse Events and Product Complaints, as revised by Owner from time to time and published on the Internet at <http://supplierportal.Lilly.com> or otherwise made available to Contractor.
- 5.2 If during the course of performing Services/Project under the Agreement or Contract, Contractor, Contractor's Representatives, or Contractor's Subcontractors become aware of an Adverse Events or Product Complaint, Contractor will report such information to Owner within one business day of awareness by calling The Owner Answers Center at 1-800 LillyRx. This reporting obligation does not apply to information that Contractor's Representatives or Subcontractors receive directly from Owner or from a clinical investigator conducting a clinical trial on behalf of Owner.

Section 6 **Exports**

- 6.1 Notwithstanding any other provision of the Agreement or Contract, Contractor will not export, re-export, or transfer any goods, technology, or software, or cause the export, re-export, or transfer of any goods, technology, or software, with Owner listed as the principal party in interest or exporter, or otherwise in Owner's name, without the valid, written authorization of Owner's Export Planning and Compliance organization. In no event will Contractor export, re-export, or transfer any such good, technology, or software if doing so would cause Owner, Contractor, Subcontractor, or any other Person to violate the Export Administration Regulations (15 C.F.R. Part 730 *et seq.*), the U.S. Foreign Trade Regulations (15 C.F.R. Part 30), any trade or economic sanctions regulations (including those administered by the U.S. Treasury Department's Office of Foreign Assets Control (31 C.F.R. Ch.V) or any other Applicable Law. Owner reserves the right to revoke any such export authorization at any time and for any reason.
- 6.2 Export Clearance Documentation. If Contractor is authorized by Owner to file export clearance documentation (such as Electronic Export Information in the United States, including Puerto Rico) with any governmental authority on Owner's behalf, Contractor shall: (i) accurately prepare and timely file such export clearance documentation as required by Applicable Law based on information provided by Owner or by other parties involved in the transaction; (ii) retain such export clearance filings, whether electronically or otherwise, and documentation to support the information provided in the filing of such clearance documents for a period of at least five (5) years from the date of export; and (iii) upon request, provide Owner in a mutually agreed format, a copy of export clearance documents filed, electronically or otherwise, by Contractor on behalf

of Owner. In the event that Contractor is uncertain of or is missing specific information required for the filing of export clearance documentation, or has questions about any other legal or factual issue related to an export, Contractor shall promptly inquire Owner concerning such uncertainty, missing information, or question.

- 6.3 **Restricted Party Screening.** Contractor shall verify its customers, transactions, subcontractors, vendors, banks, and all other third parties are not on government lists of restricted parties available at <http://www.bis.doc.gov/complianceand enforcement/liststocheck.htm> maintained by U.S. Department of Commerce's Bureau of Industry and Security.

Section 7 **Imports**

- 7.1 The parties agree that any materials or Deliverables shipped to the United States or Puerto Rico in conjunction with Contractor's performance of its obligations under the Agreement or Contract will be cleared for export and import, transported, and delivered to Owner's designated facility by such party(s) as agreed by Contractor and Owner. Unless otherwise agreed by Contractor and Owner, Owner shall be the importer of record and shall comply with its obligations as defined in 19 U.S.C. § 1484, including: (i) payment of all import related fees or expenses, customs duties and fees, and fees for custom house brokerage; (ii) arrangement of all logistics for importation, including selection of customhouse brokers, carriers and freight forwarders; and (iii) obtaining and filing all necessary import documentation, authorizations, and declarations. Contractor shall: (i) load the Deliverables at Contractor's premises or other designated facility by Owner to the means of transport designated by Owner; and (ii) obtain, at its expense, in compliance with all Applicable Laws, any export license or other official authorization and carry out all customs formalities necessary for the export of the goods. Contractor shall retain title and risk of loss or other damage to materials until delivered to Owner or its designee. Contractor shall assist Owner in all aspects of import clearance and shall provide all relevant details or information requested by Owner in a timely manner throughout such process.
- 7.2 Notwithstanding the forgoing, Owner (or its authorized designee) is responsible for: (i) providing information necessary to facilitate the import which is not reasonably ascertainable by Contractor through other means, including the provision of "right to reference" letters for U.S. FDA-regulated materials covered by Owner registrations; (ii) obtaining any required U.S. Department of Agriculture (USDA) import permits if Owner (or its authorized designee) is the consignee with respect to the import of materials regulated by the USDA; and (iii) obtaining any foreign government documentation required for import of USDA-regulated materials if the foreign exporter is a Owner Affiliate or Owner's authorized designee.
- 7.3 Notwithstanding the forgoing, Contractor is responsible for: (i) obtaining any foreign government documentation required for import of U.S. Department of Agriculture-regulated materials; (ii) upon request from Owner and at no additional cost, furnishing copies of Records as may be necessary for Owner to verify its representations to regulatory authorities regarding materials imported by Owner under the terms of the Agreement or Contract. In no event shall Contractor adjust the amount payable or reimbursable by Owner for previously imported materials. Any such adjustments must be applied to future shipments; (iii) compliance with Owner's requirements for the customs invoice, including Owner's instructions for valuation of materials; and (iv) providing a "pro forma" invoice stating "Value for Customs Purposes Only" for materials provided to Owner free of charge.

Section 8 **Contractor's Invoices**

- 8.1 **Schedule.** Except to the extent otherwise provided by the Service Specifications, Contractor will submit invoices on the following schedule:

- 8.1.1 For hourly fees, for unit-based fees, and for reimbursement of expenses: once a month, as accrued or incurred.
- 8.1.2 For fixed fees: after Owner has received and accepted all Services/Project and Deliverables subject to the fixed fee.
- 8.2 **Form and Supplemental Information.** Each invoice must be submitted via Owner's web invoicing system and must comply with Owner's standard forms and procedures (as changed from time to time) and published on the internet at <http://supplierportal.lilly.com> and with any specific requirements in the Agreement or Contract. Each invoice will be accompanied by any information required by the Agreement or Contract or that Owner may reasonably request, including detailed information for any amounts of Taxes Contractor is collecting from Owner.
- 8.3 In addition, invoice information must comply with the laws and regulations of the Commonwealth of Puerto Rico, specifically with Sales and Use Tax (IVU) segregation requirements, as applicable.
- 8.4 Final invoices will be submitted no more than ninety (90) days after the completion of the Work. Contractor will write "Final Invoice" in the face of the invoice. If invoice is submitted by Contractor 90 days after the completion of the Work pursuant to the Purchase Order end date, the Owner will apply a 10% discount from the total invoice amount, without the taxes when applicable, to cover the administrative expenses related to the processing of the invoice and payment. In this case, Owner will pay Contractor the amount of the invoice net of the 10% discount as final payment in connection with such invoice.
- 8.5 **Currency.** Invoices will be in United States dollars and payment will be in United States dollars.
- 8.6 Owner is a holder of an industrial grant of tax exemption under the 1998 Tax Incentive Act, as amended, of the Commonwealth of Puerto Rico. Should Owner be able, because of the current or future Terms and Conditions of the 1998 Tax Incentive Act as enacted or amended, to facilitate Contractor to avail itself of benefits and/or financial gain under this act, such financial gain will be shared with Owner in a manner to be determined and agreed by the parties.

Section 9 **Safety, Security and Environmental**

- 9.1 The Contractor is responsible for the safety of its own employees (including self supervisory contractor) in the course of the performance of the Services/Project, including any services performed on the Job Site. The Contractor shall take all necessary precautions for the health and safety of all employees performing the Services/Project or activities in preparation for the Services/Project or related to its performance, and all other persons who may be affected thereby, and shall comply with all applicable provisions of the Contract Documents, Federal, Commonwealth of Puerto Rico and municipal safety laws; building, mechanical, and electrical codes; and rules, regulations and restrictions to prevent accidents or injury to persons on, about, or adjacent to the Job Site or elsewhere. The Contractor shall be responsible for assuring the employees have the proper personal protective equipment required for the different tasks, as applicable. This includes, but is not limited to, safety glasses with side shields, safety shoes, respirators, and other. The Contractor shall be responsible of providing health and safety training required for the different task to be conducted at the Job Site or any other location within the premises of the Owner. This includes but is not limited to personal protective equipment, confined space, fall protection, fire prevention, hazardous communication, respiratory protection, electrical safety, lockout / tagout, etc.
- 9.2 The Owner reserves the right to evaluate the Contractor and all Subcontractors in terms of the safety performance and qualifications prior to the commencement of the Agreement or Contract and/or Services/Project and Work and after the completion of the Services/Project. Any such

evaluation will be conducted by the Owner's Health and Safety Department and / or other Owners designated persons, and may include previous years on safety performance: Accident Records (OSHA-200, or current form / FSE Reports), past OSHA inspections, training records, written safety programs, compliance with Owner's safety policies and procedures and overall safety performance at the site. The pre-qualification of a Contractor or Subcontractor by the Owner shall not be interpreted as a certification, or similar, that the Contractor or Subcontractor's programs comply with OSHA regulations.

- 9.3 Notwithstanding the preceding sentence, the Contractor may delegate to his Subcontractor the duty imposed on the Contractor to protect his Subcontractor's employees in areas of the Job Site in which the Subcontractor shall be performing any Services/Project or in any manner have control; provided, however, any such delegation by the Contractor shall not relieve the Contractor of his obligations to the Owner under the Contract Documents.
- 9.4 Contractor will comply with, and will cause all Contractor personnel to comply with, all policies and procedures that Owner establishes to enhance the safety or security of Owner's facilities or of Persons at or near Owner's facilities, including, without limitation, measures such as safety orientation programs, substance abuse screening, background checks, restricting access through the use of identification badges and passwords, and any additional policies or procedures set forth by the Owner. Contractor will promptly notify Owner of any violation of such policies and procedures.
- 9.5 At all times on Owner's Property, Contractor will comply with, and will cause all Contractor personnel to comply with, the instructions of a Owner security official that are reasonably necessary to redress a threat, or to avoid an imminent threat, to the safety or security of such facilities or persons.
- 9.6 Contractor shall protect the Work and ensure the health and safety of all Contractor personnel. Contractor shall inspect the working environments where Contractor personnel may be present and shall promptly take action to correct conditions which cause or may reasonably be expected to cause these working environments to become unsafe. Contractor shall utilize a suitably qualified safety inspector who will head its safety management program. This safety inspector will be responsible for developing the required safety management plan. Owner does not assume any of Contractor's obligations to protect the Work and Contractor personnel.
- 9.7 Contractor personnel shall conduct the Work in a safe manner. Contractor shall develop an appropriate safety management plan and take all necessary safety and other precautions to protect Property and persons from damage, injury, or illness arising out of the performance of the Work.
- 9.8 Accidents, injuries and illnesses requiring medical attention (other than first aid), damage to Property and fires shall be verbally reported to Owner at the time of the incident. Written reports, satisfactory in form and content to Owner, shall be submitted promptly after each incident by Contractor to all involved parties. Contractor shall maintain Project and Job Site accident, injury and illness records and statistics.
- 9.9 When the possibility of injury to persons or damage to Property is anticipated, Contractor shall take immediate remedial action, including the stoppage of Work where necessary to prevent such injury or damage. Should Contractor encounter any hazardous substances, Contractor shall immediately cease all activity, notify Owner and thereafter coordinate with Owner in efforts to remedy such condition.
- 9.10 Contractor shall ensure that all Contractor personnel have appropriate health and medical insurance coverage for any accidents or personal injuries that such individuals might incur while in Owner facilities, on Owner property, or traveling to and from such facilities/property. If such

an injury or accident occurs, Contractor consents to such Contractor personnel being treated for such injury by Owner response teams, and Contractor shall indemnify Owner for costs associated with any such injury consistent with the Indemnification Section of this General Conditions.

9.11 Protection of Environment

The Contractor is responsible for complying with Owner's environmental permits, policies and procedures, and the Federal, Commonwealth of Puerto Rico, and municipal environmental laws, rules, regulations, and restrictions to protect environment and manage wastes generated during its performance of the Services/Project or activities in preparation for the Services/Project.

All Contractors will be evaluated in terms of their environmental performance and qualifications prior to the commencement of the Agreement or Contract and after the completion of the Services/Project. This evaluation will be conducted by the Owner and/or other Owner designated representative. This evaluation could include previous years of on-site environmental performance, compliance with Owner's Environment policies and procedures, assessment of Contractors' facilities and equipment and verification of all permits, licenses, insurance, etc., required by the Federal, Commonwealth of Puerto Rico, and municipal environmental laws, rules, regulations, and restrictions to perform the Services/Project or activities in preparation for the Services/Project. If necessary, Owner will provide specific instructions to Contractor to perform the Services/Project or activities in preparation for the Services/Project in compliance with Owner's environmental permits, policies and procedures, Federal and Commonwealth of Puerto Rico and municipal environmental laws, rules, regulations and restrictions. Contractor is responsible for complying with the provided instructions and/or Subcontractor's compliance.

Notwithstanding the preceding sentences, the Contractor may delegate to his Subcontractor the duty imposed on the Contractor; provided, however, any such delegation by the Contractor shall not relieve the Contractor of his obligations to the Owner under the Contract Documents.

Section 10 **Supplier Diversity Development, Code of Conduct and Sustainability**

- 10.1 Contractor agrees to endeavor to purchase annually goods and services utilized in furnishing the Services/Project and Deliverables from businesses that fall within one or more of the categories published on the internet at <http://supplierportal.Lilly.com>. Within fifteen (15) days of the end of each calendar quarter, Contractor will report to Owner the amount (in United States dollars) of such purchases for the calendar quarter that just ended, itemized among such categories. The Contractor will deliver the report to the address designated by Owner.
- 10.2 Contractor acknowledges that Owner has adopted a Supplier Code of Conduct based on the Pharmaceutical Industry Principles for Responsible Supply Chain Management. These principles represent high-level expectations of business performance in the areas of ethics, labor, health and safety, environment and related management systems. Together with Owner Quality Standards, these principles comprise the high standards Owner sets for its suppliers and service providers. Contractor agrees to endeavor to follow Owner Supplier Code of Conduct set forth on the internet at <http://supplierportal.Lilly.com> or as otherwise provided by Owner. Contractor agrees to submit to audits for compliance with these principles. Failure to comply in any area will result in a written report and an action plan to bring Contractor into compliance.
- 10.3 Contractor acknowledges that Owner has adopted, or during the course of the Agreement or Contract might adopt, certain corporate goals to improve the sustainability of the Products and Deliverables throughout the life cycle of those Products and Deliverables. As one of its suppliers, upon Owner's reasonable request, or as part of Contractor's continuous improvement initiatives, Owner expects Contractor to collaborate in establishing and endeavor toward achieving such sustainability goals for the Products and Deliverables, including the establishment of relevant

metrics to measure progress toward such goals. On at least an annual basis, the parties will discuss and establish, as appropriate, relevant sustainability goals and metrics and monitor progress toward such goals.

Section 11 **Debarment and Exclusion from Certain Health Care Programs**

11.1 Contractor represents that it has not been:

11.1.1 Debarred by the United States Food and Drug Administration under any provision of the Generic Drug Enforcement Act; or

11.1.2 Excluded by the Office of the Inspector General of the United States Department of Health and Human Services, or by any other authority, from participating in any health care program (such as Medicare or Medicaid) funded by any Governmental Authority.

11.2 Contractor agrees that no Person who has been debarred or excluded as described above will furnish any of the Services/Project or Deliverables or perform any of Contractor 's obligations under the Agreement or Contract.

11.3 Contractor will immediately notify Owner in writing (with a copy to Owner's legal counsel) of any actions taken or proceeding pending that threatens or confirms a debarment or exclusion of any such Person.

Owners Rights and Obligations

Section 12 **Owners General Obligations**

12.1 Awarding of Other Contracts

The Owner reserves the right to award other contracts with respect to the performance of the same or similar services as the Services/Project rendered by the Contractor under the Agreement or Contract.

12.2 Inspection of the Services/Project

The Owner shall at all times have the right to inspect the performance of the Services/Project by the Contractor and any Subcontractor, and the Contractor shall permit and facilitate inspection of the Services/Project by the Owner and public authorities at all reasonable times.

12.3 Security of Materials, Tools and Equipment

The Owner shall not be responsible for the loss of, or the security of, the materials, tools, or equipment of the Contractor or Subcontractors.

Section 13 **Payment**

13.1 **Contract Sum**

Subject to the terms of the Agreement or Contract, Contractor is entitled to receive the Contract Sum as its entire remuneration for full performance of all its obligations under the Agreement or Contract. The Contract Sum includes payment for all overhead costs, profits, expenses and taxes. Contractor is entitled to no other compensation, whether for time of staff, labor, materials, expenses, overhead, profit, taxes, insurance or other costs.

If the Agreement or Contract is on a cost reimbursable basis, Owner shall pay reimbursable costs necessary for completion of the Work actually paid or to be paid by Contractor in connection with the performance of the Work.

13.2 **Compensation**

If the Contract designates an estimated probable cost in relation to the Services/Project, the Contractor shall provide written notification to the Owner and obtain the Owner's approval before proceeding, should the Contractor determine at any time during its performance of the Services/Project that the designated estimated probable cost will be exceeded.

Compensation as provided in the Contract Documents constitutes the entire compensation to the Contractor for full performance of the Services/Project and includes payment for all overhead costs, profit, expenses and taxes.

13.3 **Payment**

Payment will be due sixty (60) days after Owner's Accounts Payable Department receives an invoice that complies with the requirements of the Contract Documents, except that Owner may withhold any amount that it may reasonably dispute in good faith until such dispute is solved.

Contractor must provide banking instructions to allow payments to be made electronically.

All payments will be made in United States dollars.

Section 14 **Owners Representations and Warranties**

14.1 Owner represents and warrants that:

14.1.1 Neither Owner nor any other Person who performs any obligation of Owner under the Agreement or Contract is prohibited from doing so by any: (i) Applicable Law; (ii) covenant not to compete; (iii) contract to deal exclusively with another Person; or (iv) other legal or professional obligation or restriction.

14.2 The performance of Owner's responsibilities under the Agreement or Contract and Owner use of the Services/Project and Deliverables comply with all Applicable Laws.

Section 15 **Access to Owner's Facilities and Information Systems**

15.1 Owner retains its right to restrict or refuse any Person access to Owner's facilities, computers, or other information systems for any reason, including not performing any of the following actions to Owner's satisfaction:

15.1.1 Submitting to and passing a drug screen;

15.1.2 Passing a criminal background check; or

15.1.3 Accepting or acknowledging in writing a personal obligation to protect Owner's confidential information.

15.2 A restriction or refusal of access to Owner's facilities, computers or other information systems, for reasons set forth in this section shall not excuse Contractor's performance under the Agreement or Contract. A restriction or refusal for any other reason excuses Contractor's performance under the Agreement or Contract only if it renders Contractor's performance impracticable, does not comport with Owner's written procedures and is manifestly unreasonable.

Section 16 Ownership of Work Product and Infringement Defense

- 16.1 All Work Product resulting from performance of the Services/Project shall be the property of the Owner, with the Owner owning the copyright and all other rights with respect thereto. The Contractor hereby expressly assigns to the Owner the entire copyright and all other rights to the Work Product. All originals and copies of the Work Product shall be delivered to the Owner upon completion of the Services/Project, termination or suspension of the Work or upon the written request of the Owner, whichever is earliest. The Contractor agrees to execute, and require the Subcontractors to execute, without further consideration, assignments or other documents that may be necessary to establish the Owner's ownership of the Work Product.
- 16.2 The Contractor agrees to defend or settle, at its expense, any claim against the Owner which alleges that the Work Product infringes any patent, copyright or other proprietary right of a third party and will pay all costs and damages finally awarded against the Owner in such claim, provided the Owner notifies the Contractor promptly in writing of any such claim and, at the Contractor's expense, assists in the defense of such claim. If, in the discretion of the Owner, the Contractor fails to promptly and timely commence such defense or thereafter to diligently and continuously prosecute such defense, the Owner shall be entitled to undertake such defense and settlement and the Contractor shall reimburse the Owner for all expenses incurred by the Owner in such defense or settlement, including reasonable attorney fees, which shall be in addition to the Contractor's obligation to pay all costs and damages finally awarded against the Owner. The Contractor's undertaking concerning patent infringement claims shall not apply to the extent the alleged infringement is the result of the design or other special requirement specified by the Owner.

Section 17 Confidentiality and Nondisclosure

- 17.1 In the course of the performance of the Agreement or Contract, the Contractor's personnel may acquire information that the Owner deems confidential, including trade secrets and unpublished technical data, to which the Owner (or companies affiliated with the Owner) has proprietary rights. Such trade secrets and unpublished technical data may include chemicals, solvents, types and sequences of chemical processes equipment and reaction parameters used in the Owner's research or production facilities, as well as any chemical residues or wastes generated by the Owner, disclosed pursuant to OSHA's Hazardous Communication Standard. Additional information may be acquired through observation or by the Owner's direct disclosure. Confidential information shall also include information of a third-party, which the Owner is under an obligation to maintain in confidence. All such information is referred to hereinafter as "Disclosed Information".
- 17.2 The Contractor shall retain such Disclosed Information in strict confidence and shall not use it for the benefit of the Contractor or others, or communicate it to others without the Owner's prior written agreement. The Contractor shall not take photographs of any portion of the Services/Project or duplicate any Drawings or Specifications nor permit others, including Subcontractors, to do so without the prior approval of the Owner. Drawings and other documents made available to the Contractor by the Owner for use during the performance of the Services/Project shall remain the property of the Owner and shall be delivered to the Owner upon request or upon completion of the Services/Project, whichever is earlier.
- 17.3 Nothing in this section shall prevent the communication to others of any Disclosed Information known to the Contractor or its representatives prior to such disclosure or lawfully obtained by the

Contractor and its representatives other than by such disclosure, or which became public knowledge through no fault of the Contractor.

- 17.4 The Contractor shall not release any information to any third person with respect to the existence or terms of the Agreement or Contract without the prior written consent of the Owner. This prohibition includes, but is not limited to, press releases, educational and scientific conferences, promotional materials, governmental filings, and discussions with lenders, investment bankers, public officials, and the media.
- 17.5 If the Contractor determines a release of such information is required by law, it shall notify the Owner in writing two (2) days before the time of the proposed release. The notice shall include the exact text of the proposed release and the time and manner of the release. If requested, the Contractor shall furnish to the Owner an opinion of counsel that the release of all the information is required by law. At the Owner's request and before the release, the Contractor shall consult with the Owner on the necessity for the disclosure and the text of the proposed release. In no event shall a release include information regarding the existence or terms of the Agreement or Contract that is not required by law.
- 17.6 Should the Contractor use a Subcontractor for performance of any portion of the Services/Project under the Agreement or Contract, the Contractor shall require the Subcontractor to execute a confidentiality and nondisclosure undertaking in the same form as set forth in this section.

Section 18 Records and Right to Audit

- 18.1 During the term of the Agreement or Contract and for a period of five (5) years after final payment by the Owner, the Contractor's Records (as defined below) shall be open to inspection and subject to audit and reproduction by the Owner or the Owner's agent or representative to the extent necessary to adequately permit evaluation and verification of charges related to the Agreement or Contract, including any invoices, change orders, or claims submitted by the Contractor to the Owner pursuant to the Agreement or Contract. The Records shall include, but not be limited to, accounting records, written policies and procedures, Subcontract files (including those pertaining to unsuccessful bidders for any Services/Project assigned to or performed by any Subcontractor); estimates (including any worksheets); correspondence; Change Order files; and back charge logs and supporting documentation.
- 18.2 The Contractor shall include in all its Subcontracts and material supply contracts a provision similar to the foregoing granting the Owner or the Owner's agent or representative the right to inspect, audit and reproduce the Records of the Contractor's Subcontractors and material suppliers. The Contractor will cooperate fully, and will cause all of its Subcontractors and material suppliers to cooperate fully, with the Owner.

Section 19 Nondisclosure, Publicity and Use of Owner Name or Trademarks

- 19.1 Contractor will not disclose any information about the Agreement or Contract, including its existence, without Owner's consent.
- 19.2 Contractor will not use the name of Owner, any Owner employee or any Owner product or service in any press release, advertising or materials distributed to prospective or existing customers, annual reports or any other public disclosure, except as required by Applicable Law. To the extent allowed by Applicable Law, Contractor will provide copies of any proposed disclosure for prior review and comment by Owner's external corporate communications (public relations) department no less than ten (10) days prior to disclosure.
- 19.3 In no event will Contractor:

- 19.3.1 Represent, directly or indirectly, that any product or service provided by Contractor has been approved, recommended, certified or endorsed by Owner; or
- 19.3.2 Use Owner's name, logo, or other trademarks.
- 19.4 Owner may, in its sole discretion, revoke any authorization or consent given under this section.

Risk Allocation

Section 20 **Termination, Breach and Remedies**

- 20.1 The Owner shall have the right to terminate the Contract in its absolute discretion upon one (1) day's written notice to the Contractor. In the event of such termination, the Owner shall have no obligation to the Contractor except the obligation to pay all costs actually incurred by the Contractor prior to the date of termination, provided, however, that in no event shall the Owner be obligated to pay an amount in excess of the Contract Sum, as set forth in the Agreement or Contract. The provisions set forth in sections Responsibility for Damage, Indemnification, Liens, Protection of Environment, Default, Ownership of Work Product and Infringement Defense and Records and Right to Audit shall survive termination of the Agreement or Contract.
- 20.2 Default
 - 20.2.1 Contractor's Failure to Perform. If the Contractor neglects to prosecute the Services/Project properly or fails to perform any provision of the Agreement or Contract, the Owner, may, after five (5) day's written notice to the Contractor and his surety (if any), and without prejudice to any other remedy it may have under Applicable Law or in equity:
 - A.0.0.1 make good the deficiencies and deduct the cost thereof from the payment then or thereafter due to the Contractor, or
 - A.0.0.2 declare the Contractor in default under the Agreement or Contract, terminate the Agreement or Contract, and finish the Services/Project by such means as the Owner sees fit.
 - 20.2.2 In the event of such declaration of default and termination of the Contractor under this section, the Owner shall have no obligation to make any payments to the Contractor until the Services/Project are completed.
 - 20.2.3 An exercise by the Owner of any of its rights specified in this section, shall not be deemed a waiver by the Owner of its right to recover damages or to exercise any other remedy it may have or a waiver by it of any rights relating to the Contractor's warranty for the portion of the Services/Project therefore completed by the Contractor.
 - 20.2.4 Owner's Failure to Perform. Should the Owner fail or refuse to pay the Contractor any payment within ten (10) days after it is due, the Contractor, if he is not in default of any of his obligations under the Agreement or Contract, may stop work and terminate the Agreement or Contract upon seven (7) days' prior written notice to the Owner. However, should the Owner make payment within the seven (7) days following this notice, the Contractor shall not have the right to stop work and terminate the Agreement or Contract. In the event of termination by the Contractor under this section, the Owner shall have no obligation to the Contractor except the obligation to pay all actual costs incurred prior to the date of termination, as full payment of the Contractor's Services/Project provided through that date, provided, however, that in no

event shall the Owner be obligated to pay an amount in excess of the Contract Sum, as set forth in the Agreement or Contract. The acceptance of final payment by the Contractor shall be deemed to be a discharge and waiver by the Contractor of any and all claims and demands against the Owner for compensation or damages on account of any matter arising out of or in connection with the Contract or the performance of the Services/Project by the Contractor.

- 20.2.5 Waiver of Acts of Default. Any failure by the Owner at any time, or from time to time, to enforce or require the strict observance and performance of any of the terms and conditions of the Agreement or Contract shall not constitute a waiver of requiring the strict observance of such terms and conditions in any way, nor bar the Owner from thereafter insisting upon the strict observance and performance of such terms and conditions. After a default by the Contractor has occurred, failure of the Owner to terminate the Agreement or Contract, or to pursue or give notice of its intention to pursue any available remedies, shall not constitute a waiver of any past, current or future default of the Contractor or be deemed an election not to subsequently pursue any available remedies with respect to any past, current or future default. The use by the Owner of one or more remedies available to the Owner, upon default of the Contractor, shall not be deemed an election not to pursue any other available remedies.

Section 21 **Indemnification**

- 21.1 To the fullest extent permitted by law, Contractor shall indemnify and hold harmless Owner (and its agents and employees) from and against all claims, damages, losses, and expenses, including, but not limited to, reasonable attorney's fees, for bodily injury (including death), or damages to property (other than property for which risk of loss is assumed by Owner in accordance with the insurance section of these General Conditions) arising out of or resulting from the performance of the Services/Project, including Contractor's proportionate share of any joint or concurrent negligence. In the event that such liabilities are contributed to by the negligent acts or omissions of Owner, the liability shall be apportioned among the parties based upon the principals of comparative negligence, except that the Contractor shall not be required to indemnify a party to the extent any such claim, damage, Losses, or expense is caused by any negligent act or omission of such party.
- 21.2 Contractor will defend and hold Owner harmless against any claim related to the hiring of employees that were previously working for other third parties, especially those working for third parties currently or previously engaged in the performance of services to Owner.

Section 22 **Exclusion of Certain Damages**

- 22.1 Neither party (nor any of its Affiliates) is required to pay, or to indemnify any Person for, consequential, indirect, incidental, punitive, or special damages, including loss of revenues and lost profits, arising from or relating to:
- 22.1.1 any breach of any provision of the Agreement or Contract, except any provision relating to confidential information or Intellectual Property Rights, or
- 22.1.2 any negligence in its performance under the Agreement or Contract, except gross negligence or intentional misconduct.

Section 23 **Insurance**

- 23.1 **Contractor's Liability Insurance.** The Contractor shall purchase and maintain such insurance as will protect him from the claims set forth below, any or all of which may arise out of or result from the operations or activities of the Contractor or his Subcontractors or anyone directly or indirectly employed by any of them or by anyone for whose acts or omissions any of them may be liable, whether on or adjacent to the Job Site or elsewhere:
- 23.1.1 claims under worker's compensation, disability benefit and other employee benefits acts applicable to the performance of the Services/Project (including such workmen's compensation insurance as shall be required to qualify as an insured employer with respect to its own employees and with respect to the employees of each Subcontractor retained by the Contractor under the rules and regulations of the State Insurance Fund ("Fondo del Seguro del Estado");
 - 23.1.2 claims for damages due to of bodily injury and personal injury, including death of any Person; and
 - 23.1.3 claims for damage to property of any Person.
- 23.2 The Contractor's comprehensive general liability insurance shall also provide coverage for the following:
- 23.2.1 contractual liability insurance as applicable to any hold harmless agreements in the Agreement or Contract;
 - 23.2.2 completed operations; and
 - 23.2.3 broad form of property coverage for property in the care, custody, or control of the Contractor, except that the Owner shall provide insurance to cover damages to property of the Owner in due course of transit by the Contractor or in course of installation by the Contractor on premises of the Owner.
- 23.3 Such insurance shall specifically include coverage for property damage from explosion, collapse, and underground operation.
- 23.4 This insurance shall be written for not less than the following limits of liability:
- a) **General Liability:**

General Aggregate	\$2,000,000
Products-completed operations aggregate	\$1,000,000
Personal and advertisers injury	\$1,000,000
Each occurrence	\$1,000,000
Fire damage	\$50,000
 - b) **Automobile Liability**

Combined single-limit	\$1,000,000
Bodily injury (per individual)	\$500,000
Bodily injury (per accident)	\$1,000,000
Property damage	\$1,000,000
 - c) **Professional Liability** (only for Contracts including design services or other professional services) \$1,000,000
 - d) **Excess Liability or Umbrella Liability** \$1,000,000
(over and above underlying policies and limits listed above)
 - e) **Worker's Compensation** Statutory

- 23.5 Insurance limits required under this section may be maintained through primary and excess insurance coverage.
- 23.6 Policies issued under this section providing general liability or auto liability shall contain a Waiver of Subrogation in favor of the Owner. The Contractor shall also require similar waivers from Subcontractors.
- 23.7 Certificates to be Filed With Owner. Certificates of Insurance shall be filed with the Owner prior to commencement of the Services/Project. These certificates shall contain a provision that coverage afforded under the policies will not be canceled until at least thirty (30) days prior written notice to the Owner. These certificates shall also name the Owner as an additional insured for all policies of insurance other than workers' compensation.
- 23.8 Property Insurance. The Contractors and Subcontractors shall provide their own insurance for their materials, equipment, and tools.
- 23.9 Waiver of Rights. The Owner and Contractor waive all rights against each other for damages caused by fire or other perils to the extent covered by insurance provided under this Section 32. The Contractor shall require similar waivers from Subcontractors.

Section 24 **Disaster Recovery and Business Continuity Plan**

- 24.1 At all times during the course of the Agreement or Contract, Contractor will maintain and adequately support a disaster recovery and business continuity program ("Disaster Recovery and Business Continuity Program") that ensures the continuous operation and, in the event of an interruption, the recovery of all material business functions needed to meet Contractor's obligations under the Agreement or Contract. The Disaster Recovery and Business Continuity Program will minimally include a detailed disaster recovery plan, which describes the management methodology, management team, emergency contact persons, and specific plans for potential risks that may disrupt Contractor's operations. The plan shall meet and be consistent with generally accepted industry standards. Upon demand, Contractor will provide a copy and overview of the plan to Owner.

General Terms and Conditions

Section 25 **Compliance with Law and Owner Policies**

- 25.1 In the performance of its Services/Project and obligations under the Agreement or Contract, Contractor shall comply with all Applicable Laws, regulations, Owner's policies and professional or good practice standards, or codes applicable to the nature of the services provided, including, but not limited to:
- 25.1.1 Applicable provisions of the Anti-Bribery Commitments for Owner Procurement Contracts as revised by Owner from time to time and published at <http://supplierportal.lilly.com> or otherwise made available to Contractor;
- 25.1.2 Applicable provisions of Owners Vendor Privacy and Security Standard as revised by Owner from time to time and published at <http://supplierportal.lilly.com> or otherwise made available to Contractor;

- 25.1.3 Paragraphs (1) through (3) of 29 C.F.R. Part 471, Appendix A to Subpart A regarding the posting of certain notices pertaining to employee rights under the National Labor Relations Act available at <http://www.gpoaccess.gov/fr/>; and
- 25.1.4 Applicable provisions of Owner's export and import policies as referenced in the Contract Documents.

Section 26 **Taxes**

- 26.1 The Contractor shall pay all Commonwealth of Puerto Rico local and municipal taxes, transportation taxes, Federal taxes, and all charges or duties of any nature applicable to the Services/Project and Deliverables. The cost of all such taxes, charges, and duties shall and are presumed to be included in Contractor compensation as set out in the Agreement or Contract, regardless of statements to the contrary. Contractor is made aware of sections 1062.03, 1062.08 and 1062.11 of the Internal Revenue Code for a New Puerto Rico of 2011, as amended, and/or under any predecessor or successor legislation including applicable regulations and administrative pronouncements regarding certain tax withholding requirements, which Owner must and will comply with.

Section 27 **Independent Contractor**

- 27.1 In performing its obligations under the Agreement or Contract, Contractor acts solely as an independent contractor. The Agreement or Contract does not create a partnership, joint venture or any similar relationship between Owner and Contractor. Neither Contractor nor Owner has any authority:
 - 27.1.1 To bind, incur any liability on behalf of or otherwise commit the other; or
 - 27.1.2 To act in any other manner as agent or representative of the other.
- 27.2 Contractor or Subcontractor personnel are not employees of Owner for any purpose. Owner will not withhold any taxes, pay any social security taxes, pay unemployment compensation, furnish workers' compensation insurance or provide any employment benefits for Contractor or Subcontractor personnel.

Section 28 **Delegation and Assignment**

- 28.1 The Contractor shall neither delegate his duty of performance nor assign, in whole or in part, his rights or obligations under the Agreement or Contract without the prior written consent of the Owner, and any attempted delegation or assignment without such consent shall be of no force and effect. Subject to the restrictions contained in the preceding sentence, the Agreement or Contract shall be binding upon the Contractor and the Owner, their successors and assigns. and T

Section 29 **Severability**

- 29.1 If a provision of the Agreement or Contract is held to be unenforceable, the other provisions will remain in full force and effect. If possible, the offending provision will be modified to the slightest degree necessary to make it enforceable, remaining as close as possible to the parties' original intent for the provision. If not possible, the offending provision will be stricken.

Section 30 **Contract and Terms Interpretation and Resolution of Conflicts**

- 30.1 Whenever the terms "as approved," "as directed," "approved equal", "equivalent," or similar terms appear in the Contract Documents, such terms shall be construed to mean "as approved by the Owner," "as directed by the Owner," "equal, or equivalent as approved by the Owner".

- 30.2 Within the Contract Documents the term “trade” shall be construed to mean workmen or mechanics having special skills, or the firms that hire them, as applicable.
- 30.3 Where the term “Contractor “ is modified in any way, such as, without limit, “this contractor,” “plumbing contractor,” “qualification contractor,” “validation contractor,” “documentation contractor,” “electrical contractor,” such term shall be construed to mean the trade involved with the Services/Project mentioned, but such meaning shall not relieve the Contractor from his responsibility for the Services/Project, whether or not the Services/Project are sublet.
- 30.4 The Contract Documents are complementary; what is called for by one is as binding as if called for by all. However, in the event of conflict between the Agreement or Contract and any of the other Contract Documents, the provisions of the Agreement or Contract shall govern. In the event of conflict between these General Conditions and any of the Contract Documents (other than the Agreement or Contract), the provisions of these General Conditions shall govern. If, during the performance of the Services/Project, Contractor finds a conflict, he shall report it to Owner in writing at once and before proceeding with the Services/Project affected thereby
- 30.5 The meaning of a provision of the Agreement or Contract will be considered in context with other provisions of the Agreement or Contract. If any provisions of the Agreement or Contract are in conflict, the provision setting forth the better quality or greater quantity of work, the higher standard or higher obligation shall control.
- 30.6 The terms defined herein include the plural as well as the singular. Any reference to an article, section, paragraph, or subparagraph refers to an article, section, paragraph or subparagraph of these General Conditions, unless otherwise specified. The table of contents and the headings and subheadings are inserted for convenience only and shall not be deemed a part of these General Conditions nor taken into consideration in the interpretation or construction of these General Conditions. If any provision of these General Conditions contemplate that Owner and Contractor will negotiate any matter after the General Conditions are published and become effective, such provision shall be construed to include an obligation on the part of the parties to negotiate in good faith in accordance with the intent of these General Conditions.
- 30.7 If Contractor discovers any conflict, error, ambiguity or discrepancy in the Contract Documents, or whenever, in Contractor's reasonable opinion, the scope of Work, Specifications or Drawings for any portion of the Work are defective, deficient, at variance with each other or with Applicable Laws or, if followed, would result in unsafe, defective or deficient construction or in construction violating any Applicable Laws or would cause the Work to be insecure or to deteriorate (other than as a result of normal wear and tear), Contractor will immediately discontinue performance on the affected Work and immediately notify Owner verbally, followed in writing, of such discovery or opinion, providing pertinent details. Contractor will not proceed with the affected Work until it has received a written order from Owner directing what action, if any, is to be taken. Contractor shall be liable for failure to report any conflict of which Contractor knew or should have known.
- 30.8 All Contract Documents, including any modifications or additions thereto, shall be read in a complementary manner. Anything mentioned in the Specifications and not shown on any referenced Drawing, or shown on any referenced Drawing and not mentioned in the Specifications, shall be of like effect as if shown and mentioned in both.
- 30.9 In the event of a conflict or inconsistency among the various Contract Documents, such conflict or inconsistency shall be resolved by reference to that document having the higher priority as determined by the order in which the Contract Documents are listed in the definition of such term in section hereof entitled "Definitions." Subject to the foregoing, if any provision in any Contract

Document is in conflict with any other provision in such Contract Document, the provision setting forth the higher standard of conduct will prevail.

- 30.10 References to the “Agreement or Contract” include any schedule, exhibit, annex or other attachment and any amendment, variation, restatement or replacement of such “Agreement or Contract “ as the case may be.
- 30.11 References to the “Applicable Laws” include all consolidation, amendments, reenactments, extensions or replacements of such “Applicable Laws”.
- 30.12 Words of any gender shall include the corresponding words of the other gender.
- 30.13 ”Including” means “including, but not limited to” and other forms of the verb “to include” are to be interpreted similarly.
- 30.14 References to “or” shall be deemed to be disjunctive but not necessarily exclusive; unless the context dictates otherwise, “or” shall be interpreted to mean “and/or” rather than “either/or”.
- 30.15 “Owner” and “Contractor” are sometimes hereinafter referred to individually as “a Party” and collectively as “the Parties”.

Section 31 **Choice of Law**

- 31.1 The Agreement or Contract shall be interpreted in accordance with and governed by the laws of the Commonwealth of Puerto Rico.

Section 32 **Choice of Forum**

- 32.1 Any suit or action arising out of a dispute under the Agreement or Contract, performance of the Services/Project or otherwise, shall be brought only in the courts of the Commonwealth of Puerto Rico. Both Parties hereby submit to the jurisdiction of any competent court of the Commonwealth of Puerto Rico sitting in San Juan, Puerto Rico.

Section 33 **Survival**

- 33.1 The expiration, termination or cancellation of the Agreement or Contract will not extinguish the rights and obligations of either party that accrue prior to its expiration, termination or cancellation.
- 33.2 All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work and termination, cancellation, expiration or completion of the Agreement or Contract.

Section 34 **No Waiver**

- 34.1 No provision of the Agreement or Contract will be deemed to have been waived unless the waiving party specifically grants such waiver in writing.
- 34.2 No delay in exercising any right, power or privilege under the Agreement or Contract will operate to waive, completely or partially, any present or future exercise of that right, power or privilege.

Section 35 **Notice**

- 35.1 Unless specifically directed otherwise in the Agreement or Contract, whenever written notice is required by the Agreement or Contract, it must be delivered to the address indicated in the Agreement or Contract by:

- 35.1.1 Certified mail, postage pre-paid, return receipt requested;
 - 35.1.2 Hand delivery;
 - 35.1.3 Recognized commercial overnight delivery service such as Federal Express or United Parcel Service;
 - 35.1.4 Email; or
 - 35.1.5 Facsimile.
- 35.2 Either party may change its address for notices by written notice to the other.
- 35.3 Notice is effective when received. If delivery of any notice cannot be made despite reasonable efforts or if delivery is refused, the requirement to give notice is excused.

Section 36 Integration and Amendments

- 36.1 The Agreement or Contract is the final, complete and exclusive expression of all the statements, promises, terms and conditions within its scope and supersedes any prior written or verbal negotiations, representations or agreements within its scope. In making the Agreement or Contract, neither Party relies on any promise or statement made by the other Party, other than those contained in the Agreement or Contract.
- 36.2 No amendment to the Agreement or Contract, including these General Conditions, is binding on either Party unless it is in writing and signed by each Party. Nothing incorporated in or referred to in Contractor's bid or acceptance or any conditions set forth therein shall bind Owner.

Exhibit A Definitions

- 36.1 **Agreement or Contract** means any written agreement, including but not limited to Purchase Orders as revised, between Owner and Contractor incorporating these General Conditions that identifies the Work that the Contractor agrees to furnish Owner.
- 36.2 **Applicable Laws** mean all applicable laws, statutes, treaties, rules, codes, ordinances, regulations, permits, interpretations, certificates, orders, judgments, decisions, decrees, injunctions, writs, subpoenas or similar actions of any Governmental Authority.
- 36.3 **Change Order** means any requested work modification, reasons for the change and the difference in the amount and time between the previous Agreement or Contract and the Change Order request. The Change Order form, if accepted by the Owner, becomes the valid contract by which the Contractor and the Owner must legally abide.
- 36.4 **Claim** means claims, demands, lawsuits, administrative proceedings or similar actions.
- 36.5 **Contract Documents** means the following and any amendments thereto:
- 36.5.1 the Agreement or Contract;
 - 36.5.2 these General Conditions;
 - 36.5.3 any other document identified in the Agreement or Contract; and
 - 36.5.4 the Drawings and Specifications.
- 36.6 **Contract Sum** means the price stated in the Agreement or Contract, which is the total amount payable by the Owner to the Contractor for the performance of the Work, Services/Project. Under the Contract Documents this can be adjusted only by an approved **Change Order**.
- 36.7 **Contractor** means the contractor named in the Agreement or Contract.
- 36.8 **Deliverables** means any materials, articles, substances, models, samples, software, data, records, reports, notices, documents, photographs, video recordings, audio recordings, drawings, specifications, information and the like (whether physical, Electronic, magnetic or other form) that Contractor is specifically obligated to furnish to Owner or that are identified as Deliverables in the Agreement or Contract.
- 36.9 **Drawings** mean the part of the Contract Documents which graphically shows the scope, extent and character of the Work.
- 36.10 **Electronic** relates to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.
- 36.11 **Government Authority** means any national, federal, state, or local government entity, authority, agency, instrumentality, court, tribunal, regulatory commission or other body, legislative, judicial, administrative or executive.
- 36.12 **Intellectual Property** means all inventions, original expressions of ideas embodied in a tangible form, copyright, trademarks, trade secrets, information, know-how, and the like that are afforded or may be afforded upon action by Governmental Authority such as the United States Patent Office and Intellectual Property Rights.
- 36.13 **Intellectual Property Rights** means the property rights or quasi- property rights afforded by patents, copyrights, trademarks or trade secrets, publicity rights, privacy rights, and moral rights (such as the rights of attribution and integrity).

- 36.14 **Job Site** means the physical location where Contractor will perform the Work described in the Agreement or Contract.
- 36.15 **Fault** means any act or omission of negligence, gross negligence or willful, wanton or intentional misconduct.
- 36.16 **Loss** includes any kind of losses, damages, costs or expenses (including but not limited to interest, penalties, surcharges, legal, accounting, consultant or expert witness fees) recoverable at law or in equity, whether sounding in contract, tort, strict liability or other theory.
- 36.17 **Person** means any individual, partnership, corporation, association, limited liability company, unincorporated organization, joint venture, government or political subdivision or agency thereof or other form of organization.
- 36.18 **Personal Information** means any information as defined in Vendor Privacy and Security Standard.
- 36.19 **Project** means Owner's entire project , Work, Services, Deliverables identified in the Agreement or Contract.
- 36.20 **Property** means Intellectual Property, Records, and all other property, both tangible and intangible, personal and real and Owner's facilities.
- 36.21 **Purchase Orders** is a contractual commitment meeting the requirements for a Purchase Order set forth in the Agreement or Contract, executed by both Owner and Contractor, that engages Contractor to furnish Owner specified Services/Project and Deliverables. In addition, any binding document between the parties entered into for the same purpose as a Purchase Order under the terms and conditions of the Agreement or Contract, such as, Service Orders, Scope of Work, E Catalog Order, P Card Order, Statement of Work, Work Order, etc.
- 36.22 **Records** means without limitation, all information of any type including , data, text, images, sounds codes, source codes, computer programs, software, data bases or the like, used, provided, created or obtained in the performance of the Work, Project, Services and Deliverables under the Agreement or Contract either or paper or other tangible medium or Electronic medium.
- 36.23 **Services/Project** means the particular services that Contractor is to provide in connection with the Project as provided for in the Contract Documents.
- 36.24 **Specifications** means that part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship for the Work, and certain administrative requirements and procedural matters.
- 36.25 **Subcontract** means any contract or purchase order with any vendor, supplier, materialman or contractor other than Contractor to perform any part of the Work, to perform any obligations of Contractor or to provide any equipment or material in connection with the Work.
- 36.26 **Subcontractor** means any vendor, supplier, materialman, contractor or Person whether under a Subcontract or not, performing any part of the Work or providing any equipment or materials in connection with the Work, whether in privity with Contractor or another Subcontractor.
- 36.27 **Owner** means Lilly del Caribe, Inc and/or any of its affiliated companies that are party to the Agreement or Contract.
- 36.28 **Vendor** means Contractor for purposes of the Vendor Privacy and Security Standard.
- 36.29 **Tax or Taxes** means all taxes, levies, or other like assessments, charges, fees, including, without limitation, income, gross receipts, excise, ad valorem, property, goods and services, value added ("VAT"), import, export, sales, use, license, payroll, franchise and privilege taxes or other taxes,

fees, duties, charges, levies, or assessments of any kind whatsoever (whether payable directly or by withholding), together with any interest and any penalties, additions to tax or additional amounts, imposed by state, federal, local, provincial or foreign government or any subdivision or agency thereof. "Income Tax" means all Taxes (including franchise and privilege taxes) based upon or measured by income or gross receipts over a period of time, including withholding Taxes imposed in lieu of Income Taxes. "Transaction Tax" means all services, VAT, sales, use, transaction-based gross receipts, COFINS, ISS, PIS, China Business Tax and other similar Taxes arising in connection with charges to Owner under the Agreement or Contract or a particular transfer of property, goods or services. "Property Tax" means real and personal property ad valorem Taxes and any other Taxes imposed on a periodic basis and measured by the level or value of any item. "Import or Export Tax" means any import, export, withholding and similar Taxes related to the importation or exportation of any goods or services, Deliverables or Work Product performed under the Agreement or Contract.

36.30 **Work** may be the entire Project or it may be only a portion of the Project.

36.31 **Work Product** means all articles, magnetic media, materials, goods, information, works of authorship, trademarks, artwork, Drawings, text, Specifications, calculations, reports, inventions, discoveries, processes, improvements, software, Deliverables and other documentation and materials created, developed, conceived or first reduced to practice by Contractor, alone or with others, related to the Work or derived from information or materials Contractor has received from Owner.

Exhibit B Diverse Business Enterprises

MBE	Minority business enterprises certified as such by an affiliate of the National Minority Supplier Development Council, Inc. Certification requirements can be found at www.nmsdc.org .
WBE	Women business enterprises meeting the requirements for certification as such by the Women's Business Enterprise National Council. See www.wbenc.org for requirements. Actual certification desirable but not required.
WOSB	Women-owned small business concerns as defined in 48 CFR 2.101 (at least 51% owned by women with management and daily business operations controlled by one or more women).
SDB	Small disadvantaged business concerns as defined in 48 CFR 2.101 (which requires certification by the Small Business Administration under 13 CFR part 124 subpart B).
SB	As determined by SBA regulations, Participants, as defined in 13 CFR 124.3, in the Section Small Business Administration's Section 8(a) business development program of 13 CFR part 124 subpart A.
VBE	Veteran-owned small business concerns as defined in 48 CFR 2.101 (at least 51% owned by veterans with management and daily business operations controlled by one or more veterans). Self-certification is acceptable.
DVBE	Service-disabled veteran-owned small business concerns as defined in 48 CFR 2.101 (veterans with service-connected disability own at least 51% and control management and daily business operations). Self-certification is acceptable.
HUB	HUBZONE small business concerns as defined in 48 CFR 2.101 (based on census tract information, economic data, and unemployment rates in a particular geographic area).
8A Participants	Participants, as defined in 13 CFR 124.3, in the Small Business Administration's Section 8(a) business development program of 13 CFR part 124 subpart A.
HBCU/MI	Historically black colleges and universities or minority institutions, each as defined in 48 CFR 2.101. A recent list of HBCU and post-secondary MI is available at http://www.ed.gov/about/inits/list/whhbcu/edlite-list.html .