

ViiV HEALTHCARE AUSTRALIA TERMS AND CONDITIONS OF PURCHASE

1. DEFINITIONS. In these Conditions:

- (1) "Adverse Event" (or "AE") shall mean any untoward medical occurrence in a patient, or consumer, temporally associated with the use of a ViiV Product, whether or not considered drug-related. An Adverse Event and other "Human Safety Information" (or "HSI") can include, without limitation:
- a) any unintended sign (including an abnormal laboratory finding), symptom, or disease (new or exacerbated);
 - b) failure to produce expected benefits (i.e. lack of efficacy);
 - c) reports of medication errors or misuse, including drug overdose, whether accidental or intentional;
 - d) reports of drug abuse or effects of drug withdrawal;
 - e) reports of occupational exposure;
 - f) reports of patients taking ViiV Products whilst pregnant or breastfeeding;
 - g) reports of drug interaction;
 - h) reports of paternal exposure to a ViiV Product;
 - i) reports of suspicion that an infectious agent has been transmitted via a ViiV Product;
 - j) information received as part of a product quality complaint; or
 - k) unexpected therapeutic benefits – an unexpected improvement in a concurrent condition other than the one being treated.
- (2) "Agreement" means an agreement between the Purchaser and Supplier for the supply of the Goods and / or Services constituted by an Order, these Conditions and any agreed variation (such as a Negotiated Agreement);
- (3) "Conditions" means these terms and conditions of purchase and any agreed variations;
- (4) "Corporations Act" means the *Corporations Act 2001* (Cth), as amended;
- (5) "Goods" means the goods described in the Order;
- (7) "GST" means any tax including any additional tax imposed on the supply of or payment for goods or services which is imposed or assessed under any GST Law;
- (8) "GST Law" means *A New Tax System (Goods and Services Tax) Act 1999*, as amended, and all related and auxiliary legislation;
- (9) "Loss" means any loss, liability, cost (including legal costs as the higher of an indemnity or solicitor-client basis) or expense incurred by the Purchaser relating to the Agreement;
- (10) "Negotiated Agreement" means a separate written agreement relating to the ongoing supply of Goods and / or Services to the Purchaser which supplements or supersedes these Conditions and an Order in accordance with clause 2.3;
- (11) "Order" means the Purchaser's order for Goods and / or Services included with these Conditions (which also forms part of the Agreement);
- (12) "Purchaser" means ViiV Healthcare Pty Ltd ABN 46 138 687 448 and any related body corporate (within the meaning of section 50 of the Corporations Act) as specified in the Order;
- (13) "Representative" of a party means that party's director, officer, employee or agent;
- (14) "security interest" has the meaning given in the *Personal Property Securities Act 2009* (Cth), as amended;
- (15) "Services" means the services described in the Order;
- (16) "Supplier" means the person (as defined in the Corporations Act) who sells the Goods and / or provides the Services to the Purchaser;
- (17) "ViiV Product" means an investigational or licensed medicinal product, consumer healthcare product, vaccine, biological product or device whether under development by, or manufactured, marketed, supplied or distributed by or on behalf of, any division or operating company of the Purchaser or the ViiV group of companies, whether in Australia, New Zealand or in any other country. A list of ViiV Products is available on the ViiV website.

2. BINDING TERMS AND CONDITIONS

2.1 Entire Agreement . Subject to clause 2.3, the Agreement represent the entire agreement between the Purchaser and the Supplier for the purchase of the Goods and / or Services.

- 2.2 Precedence . Subject to clause 2.3, these Conditions shall apply to all contracts for the purchase of Goods and / or Services by the Purchaser from the Supplier to the exclusion of any terms and conditions or any other materials which the Supplier may purport to apply or which are endorsed upon any correspondence or documents issued by the Supplier, irrespective of their date of communication to the Purchaser.
- 2.3 Negotiated Agreement. The parties may, but are not obliged to, enter into a separate Negotiated Agreement relating to the ongoing supply of Goods and / or Services by the Supplier to the Purchaser. Where the parties have entered into a Negotiated Agreement, to the extent of any inconsistency with these Conditions or an Order, the terms of the Negotiated Agreement will prevail.
- 2.4 Acceptance. Acceptance of an Order by the Supplier constitutes acceptance of the Agreement and the additional terms and conditions set out in the Order and any Negotiated Agreement.

3. PRICE

- 3.1 Price of Goods and / or Services Supplied. The price specified in the Order is firm, and is not subject to increase. The price includes all costs of testing, inspection, labelling, packing, charges for freight and delivery to and off-loading at the destination specified in the Order.
- 3.2 GST. The price at which the Goods and / or Services are provided by the Supplier to the Purchaser does not (unless otherwise stated or agreed in writing) include GST, which must be added to the price and paid by the Purchaser as part of the price.

4. PAYMENT

4.1 Payment Terms

Unless the invoice is disputed by the Purchaser or if the Goods or the Services have not been delivered or completed in accordance with the Agreement, the Purchaser will pay invoices within such period as specified in the Purchase Order, which term will run from the date of receipt of the relevant, accurate, complete and audit-worthy invoice by the Purchaser. Payment of the invoice does not constitute acceptance of the Goods and / or Services and shall be subject to adjustment for errors, shortages or defects in the Goods and / or Services, or any other failure of the Supplier to meet the requirements of the Order.

4.2 Invoices.

In addition to any other information specified in the Order or elsewhere in the Agreement, invoices must contain the following information: Purchase Order Number, Item Number, Description of Goods and / or Services, Sizes, Quantities, Weight, Unit Prices, GST Payable and Extended Totals. The Purchaser will only accept invoices bearing such information.

5. DELIVERY

The Goods and / or Services must be received on the dates and at destination specified in the Order. Time is of the essence. If the Supplier fails to meet any such delivery date, the Purchaser may, without limiting its other rights and remedies, cancel all or part of the Order. Unless otherwise stated or agreed in writing, the Supplier is responsible for freight and delivery to the destination specified in the Order.

6. TITLE AND QUALITY

6.1 Title of Goods.

All title and property in the Goods passes to the Purchaser on delivery and acceptance by an authorised Representative of the Purchaser in accordance with clause 6.3(2). Upon title and property passing to the Purchaser the Supplier undertakes to sign any further documents and / or provide any further information which the Purchaser may reasonably require to perfect title in the Goods and / or register a security interest in respect of the Goods.

6.2 Risk in Goods.

The Supplier bears all risks of loss and damage to the Goods until final acceptance by the Purchaser in accordance with clause 6.3(2).

6.3 Final Inspection and Acceptance.

Notwithstanding any prior inspections or payments, all Goods and / or Services shall be subject to:

- (1) final inspection which may include measurement, testing or examination; and
- (2) acceptance at the Purchaser's facility within a reasonable time (but not more than 28 days) after receipt of the Goods and / or Services.

6.4 No Waiver.

The Purchaser's acceptance does not waive rights. If the Purchaser accepts any Goods and / or Services, this does not extinguish any of the Purchaser's rights if the Goods and / or Services do not comply with a term of the Agreement.

6.5 Supplier's Warranties.

The Supplier warrants that the Goods:

- (1) are safe;
- (2) are free from encumbrances, security interests, defects or faults;
- (3) are of merchantable quality;
- (4) include appropriate and correct warnings and instructions;
- (5) are fit for the purpose for which purchased (as communicated by the Purchaser before the Order);
- (6) comply with any representations, descriptions, samples or other specifications (including Specifications) including quality, function, performance or design; and
- (7) include any applicable Supplier's warranty that passes to the consumer from the Purchaser without liability to the Purchaser.

The Supplier warrants that the Services will be performed:

- (1) in a good and workmanlike manner and with all due speed, care, skill and diligence
- (2) in accordance with the Agreement, current industry codes of practice; and
- (3) by suitably qualified and licensed personnel and sub-contractors.

6.6 Removal of Workers.

The Purchaser may at any time request the Supplier to remove from any premises within its ownership or control any worker whom the Purchaser considers fails to comply with the requirements of clause 9.1. If the Supplier fails to remove any such worker, the Purchaser may without liability to the Supplier remove such worker from the Purchaser's premises.

6.7 Rejected Goods and / or Services.

The Purchaser may reject any Goods and / or Services which do not comply strictly with the Agreement. Once the Goods and / or Services are rejected, the Purchaser may require:

- (1) in the case of either Goods and / or Services, the Supplier to refund any payment within 10 working days; or
- (2) in the case of Goods, replacement of the Goods to the Purchaser's satisfaction; or
- (3) in the case of Services, the re-supply of the Services.

Title and risk in the rejected Goods and / or Services immediately re-vests in the Supplier. The Supplier is liable for all Loss incurred by the Purchaser due to the rejection of the Goods and / or Services. The Supplier must, at its cost, remove from the rejected Goods any of the Purchaser's Intellectual Property or any other distinguishing features such as name or symbols. In the event of a rejection of Goods and / or Services, the obligation of the Purchaser to make any outstanding payments under the Order is suspended immediately.

7. INTELLECTUAL PROPERTY RIGHTS

7.1 Ownership.

The Supplier agrees that all writings, specifications, drawings, designs, copyrightable material, inventions (whether or not patentable), improvements, discoveries, developments, and all works of authorship created by the Supplier in performance of Services or the Supply of Goods and / or Services, including all worldwide rights therein under patent, copyright, trade secret, confidential information, or other intellectual property right (collectively "Work Product"), are the sole property of the Purchaser. The Supplier assigns to the Purchaser all right, title and interest in and to all such Work Product, and shall perform such further acts needed to transfer, perfect, and defend the Purchaser's

ownership of the Work Product. The Supplier shall require its sub-contractors to execute written assignments of Work Product to effect such assignment.

7.2 Licence.

To the extent that the Supplier or third parties retain ownership rights in materials delivered with the Goods and / or Services from which the Work Product is based, the Supplier grants to the Purchaser an irrevocable, worldwide, non-exclusive, royalty-free right and licence to make, have made, modify, use, distribute, publicly perform or display, sell, offer to sell, and import such materials. The Supplier warrants that it owns or has acquired rights in all such intellectual property necessary to grant the licences and intellectual property rights set out in this clause 7.

7.3 Prohibition. The Supplier may only sell Goods and / or Services containing the Purchaser's intellectual property to the Purchaser or as permitted by the Purchaser.

8. CONFIDENTIALITY

8.1 (1) Subject to clause 8.1(2), each of the Purchaser and the Supplier undertake to:

- (a) keep confidential, and neither use nor disclose except for the purpose of the Agreement, all information of a proprietary or confidential nature relating to the business and affairs of the other which it may obtain in the course of its performance of the Agreement; and
- (b) keep the Agreement confidential (including prices) and not to make any public announcement or disclosure concerning the existence of the Agreement without the consent of the other party.

(2) This condition does not apply to:

- (a) any information which is generally available to the public (other than as a result of the wrongful disclosure by a party);
- (b) disclosure to advisors (where such advisors are under a reciprocal duty of confidentiality in respect of the information disclosed); or
- (c) information that is required to be disclosed by law.

9. PREMISES

9.1 Work on the Purchaser's Premises.

If any services are to be performed on the Purchaser's premises, the Supplier must comply with all applicable environment, occupational health, and safety laws and the Purchaser's then current safety and other applicable policies (provided by the Purchaser to the Supplier at the time of entry to the Purchaser's premises or otherwise in accordance with clause 14). The Supplier shall provide the Purchaser with a complete list of all chemicals, hazardous materials, and ingredients in the composition of goods used in the performance of the Services and a copy of the material safety data sheet for such chemicals and hazardous materials. The submission of such list by the Supplier shall not relieve the Supplier of exclusive responsibility for the safe transportation, use, storage, and disposal of such materials prior to acceptance by the Purchaser. All chemicals and hazardous materials brought by the Supplier to the Purchaser's premises shall bear a label stating the identity of the chemical or material and the associated hazards.

9.2 Inspection of Supplier's premises.

The Supplier will permit authorised representatives of the Purchaser to audit the Supplier's facility and to inspect its records and licences in order to ascertain whether records comply with the law, the Purchaser's quality and occupational health and safety ("OHS") guidelines, and all other requirements. Authorised representatives of the Purchaser may only enter the Supplier's premises to inspect during business hours agreed with the Supplier on a business day upon reasonable notice by the Supplier.

10. INDEMNITY

10.1 Indemnity and Release.

Except where the Loss arises due to any act or omission of the Purchaser or its related bodies corporate, the Supplier must defend, indemnify and hold the Purchaser, its affiliated companies, and their representatives, successors, and assigns harmless from and against any and all claims, suits, actions, liabilities, loss, judgments or damages ("Loss"), whether ordinary, special or consequential arising directly or indirectly from or in connection with:

- (1) the acts, negligence, omissions or wilful misconduct of the Supplier;

- (2) the Goods and / or Services supplied;
- (3) a breach of any of the Supplier's warranties or any other term of the Agreement;
- (4) the Supplier's negligent, unauthorised or wrongful acts or omissions with regard to the use or installation of hazardous materials;
- (5) a claim that any Goods and / or Services supplied to the Purchaser infringe upon or misappropriate any patent, copyright, trademark, trade secret or other intellectual property interest of another; or
- (6) a claim of any lien, security interest or other encumbrance made by a third party.

10.2 Nothing in this clause 10 restricts or limits the Purchaser's general obligation at law to mitigate any loss it may suffer or incur as a result of an event that may give rise to any Loss covered by this clause 10.

11. TERMINATION

11.1 Without Cause.

The Purchaser may, at any time, terminate the Order, in whole or in part, without cause, upon 30 days written notice to the Supplier. Following any such termination the Supplier shall, to the extent possible and as specified by the Purchaser, stop all work on the Order, and cause its Suppliers and subcontractors to stop work. If the Purchaser does not direct the Supplier to stop work on an Order, the Supplier must continue work on the Order during the notice period. Charges for any such termination of the Order will be limited to:

- (1) any part of the Order which has been completed and delivered to the Purchaser in accordance with the Agreement; and
- (2) actual non-recoverable costs incurred by the Supplier which the Supplier can demonstrate were properly incurred prior to the date of termination. In no event shall such reimbursement include anticipated profits for undelivered Goods and / or unperformed Services.

11.2 With Cause.

The Purchaser may terminate the Order immediately, in whole or in part, by notice in writing if the Supplier:

- (1) commits a material breach of the Agreement which (if capable of remedy) is not remedied within a reasonable time of receipt of written notice of breach from the Purchaser;
- (2) becomes insolvent, files or has filed against it a petition in bankruptcy, or makes an assignment for the benefit of creditors, or anything analogous or having a substantially similar effect to any of these events occurs; or
- (3) undertakes a material change in its ownership or control which, on reasonable grounds, is unacceptable to the Purchaser.

12. FORCE MAJEURE

12.1 Force majeure.

A Party ("Affected Party") shall not be liable for any non-performance or delay in performance of any of its obligations under the Agreement (other than an obligation to pay money) by reason of any cause or circumstance beyond its control (other than a shortage of funds) including, but not limited to, for example: shortage of raw materials or fuel; breakdown in equipment or production facilities; difficulties with transportation of Goods; labour disputes, whether or not involving the employees of either party; war, riot or civil commotion; governmental legislation or intervention; fire; flood; storm; explosion; accident; act of God or inevitable accident ("Force Majeure Event").

12.2 Notice of delay.

The Affected Party must notify the other party as soon as practical of any anticipated delay or failure caused by a Force Majeure Event.

12.3 Suspension.

The performance of the Affected Party's obligations is suspended for the period of delay caused by the Force Majeure Event.

12.4 Termination.

If any Force Majeure Event persists for a continuous period of one month, either party may terminate the Agreement by 30 days' notice in writing to the other, served during such Force Majeure Event.

13. THE PURCHASER'S PROPERTY.

All drawings, specifications, artwork, data, material, supplies, equipment, tooling, dies, moulds, fixtures, and patterns furnished or paid for by the Purchaser, shall be the Purchaser's exclusive property, and shall be used by the Supplier only in performance of the Order. Such property, while in the Supplier's custody and control, shall be held at the Supplier's sole risk and, upon the Purchaser's request, shall be returned to the Purchaser in good condition, normal wear and tear excepted.

14. POLICIES AND PROCEDURES.

The Purchaser shall notify and provide copies to the Supplier of all relevant policies / procedures which the Supplier must follow in the supply of Goods and / or Services in the Agreement.

15. MISCELLANEOUS

15.1 Conditions of Assignment, Subcontracting or Advertising.

The Supplier must obtain the Purchaser's consent in writing (which will not be unreasonably withheld) before it assigns its rights or subcontracts any obligation under the Agreement.

15.2 Supplier must maintain insurance.

During the period of the Agreement, the Supplier must maintain, at its expense;

- (1) public and product liability insurance and / or professional indemnity insurance (as applicable) to adequately insure the obligations of the Supplier's business and its obligations under the Agreement; and
- (2) workers compensation insurance and other insurance as required by law.

The Supplier must on the Purchaser's request, produce satisfactory evidence of the insurance. Any limitation in the policy shall not be construed as a limitation on the Supplier's liability.

15.3 Relationship.

The Supplier is an independent contractor of the Purchaser. Nothing in the Agreement constitute any other type of relationship between the parties.

15.4 No Waiver.

Failing to insist on strict performance of the Agreement is not a waiver of any later breach or default.

15.5 Provisions are Severable.

Each provision of the Agreement is severable. Severance does not affect any other provision.

15.6 Variation must be Writing and Notified.

(1) Subject to clause 15.6(2), the Purchaser may by writing amend, supplement or replace any provision of an Order in accordance with this clause. The changes then apply to the Agreement as the Purchaser notifies after the date of change. The Purchaser can amend the following aspects of any Order under this clause:

- (a) the nature of Goods and / or Services to be supplied; and
- (b) the volume of Goods and / or Services to be supplied.

Any changes in the Supplier's costs of performance arising out of such a change to the Order shall be reflected in a written price adjustment by the Supplier, which does not take effect without the Purchaser's prior written consent. The Purchaser will compensate the Supplier for its reasonable direct costs incurred prior to any change under this clause.

(2) The Purchaser and the Supplier may amend these Conditions, the terms of any Order or any term of the Agreement by agreement in writing.

15.7 Governing Law.

The law of Victoria governs the Agreement.

15.8 Compliance with Laws and Standards.

The Supplier must ensure that the Goods and / or Services, and any other dealing between the Purchaser and the Supplier, comply with all laws and standards that ensure the Goods are saleable in Australia, including those relating to manufacturing, storage, packaging, labelling and transportation.

16. REPORTING

16.1 ViiV Product issue reporting

(1) The Supplier must notify the Purchaser by telephone (immediately confirmed in writing) or facsimile transmission immediately after it becomes aware of any information (whether credible or otherwise) which may give rise to a recall of a ViiV Product.

(2) Without limiting clause 16.1(1), the Supplier must notify the Purchaser as soon as is practicable after it becomes aware of any adverse publicity or threatened or pending legal proceedings with respect to a ViiV Product or of any other information that might adversely impact upon the goodwill associated with the Purchaser or a ViiV Product.

16.2 Adverse Event reporting

(1) If the Supplier, or any of the Supplier's contractors, are informed or become aware of any report of HSI or an AE (whether the information relates to the ViiV Product by reference to its generic name or by reference to its trade mark), the Supplier shall provide all known information in respect of each such report to the Purchaser within one business day of receipt. The Supplier shall report this information to "ViiV Medical Information" on 1800 499 226.

(2) The Supplier will also report Technical, Quality complaints or suspected counterfeit pharmaceutical products relating to ViiV Products to the Purchaser within one business day of receipt. The Supplier shall report this information to "ViiV Medical Information" on 1800 499 226. Complaints samples if available must be securely retained and provided to the Supplier upon request.

(3) In no event will personally identifiable information of any patient be provided to the Purchaser in connection with any AE or Quality Complaint without consent from the patient.

(4) Personal data of a healthcare professional who has reported an AE or HSI under the Agreement may be disclosed to the Purchaser only where that healthcare professional has given their consent for such disclosure.

17. PRODUCT RECALL

(1) 17.1 Purchaser to manage ViiV Product recall Any decision relating to a recall of a ViiV Product (including any decision relating to the initiation or implementation of a strategy relating to a recall of a ViiV Product) will be made at the discretion of the Purchaser or, where the Purchaser is not the Sponsor, the Sponsor unless otherwise directed by a relevant regulatory authority.

(2) The Supplier must not initiate, implement or take any action in relation to a recall of a ViiV Product without the prior consent of the Purchaser or, where the Purchaser is not the Sponsor, the Sponsor.

17.2 Reimbursement of recall costs

(1) The reasonable costs incurred by the Supplier, including the Supplier's management costs, in connection with the recall of a ViiV Product will be borne by the Purchaser, except where the conduct of the Supplier or its employees, contractors or other persons it has engaged has given rise to the recall of a ViiV Product (in which case the reasonable costs incurred by the Purchaser in connection with the recall of a ViiV Product will be borne by the Supplier). To the extent that a party pays costs in connection with the recall of a ViiV Product for which the other is responsible under clause 17.2(1), the other party must, after receiving a written request together with sufficient evidence to substantiate the request for reimbursement from the first party, reimburse the first party with seven days.

18. ANTI BRIBERY AND CORRUPTION

(1) The Supplier acknowledges receipt of the Anti Bribery and Corruption 'Prevention of Corruption – Third Party Guidelines' (either in hard copy or at <http://www.gsk.com/policies/Prevention-of-Corruption-Third-Party-Guidelines.pdf>) and agrees to perform its obligations under the Agreement in accordance with the principles set out therein.

(2) The Supplier shall comply fully at all time with all applicable laws and regulations, including but not limited to applicable anti-corruption laws, of Australia in which it conducts business with the Purchaser.

(3) Purchaser shall be entitled to terminate the Agreement immediately on written notice to the Supplier, if it fails to perform its obligations in accordance with this clause 18. The Supplier shall have no claim against the Purchaser for

compensation for any loss of whatever nature by virtue of the termination of the Agreement in accordance with this clause 18. To the extent (and only to the extent) that the laws of Australia provide for any such compensation to be paid to the Supplier upon the termination of the Agreement, the Supplier hereby expressly agrees to waive (to the extent possible under the laws of Australia) or to repay to the Purchaser any such compensation or indemnity.

19. ETHICAL STANDARDS AND HUMAN RIGHTS

Unless otherwise required or prohibited by law, the Supplier warrants that:

(1) it does not employ engage or otherwise use any child labour in circumstances such that the tasks performed by any such child labour could reasonably be foreseen to cause either physical or emotional impairment to the development of such child;

(2) it does not use forced labour in any form (prison, indentured, bonded or otherwise) and its employees are not required to lodge papers or deposits on starting work;

(3) it provides a safe and healthy workplace, presenting no immediate hazards to its employees, any housing provided by the Supplier to its employees is safe for habitation, and it provides access to clean water, food, and emergency healthcare to its employees in the event of accidents or incidents at the Supplier's workplace;

(4) it does not discriminate against any employees on any ground (including race, religion, disability or gender).

(5) it does not engage in or support the use of corporal punishment, mental, physical, sexual or verbal abuse and does not use cruel or abusive disciplinary practices in the workplace;

(6) it pays each employee at least the minimum wage, or a fair representation of the prevailing industry wage (whichever is the higher), and provides each employee with all legally mandated benefits;

(7) it complies with the laws on working hours and employment rights in the countries in which it operates; and

(8) it is respectful of its employees' right to join and form independent trade unions and freedom of association.

The Supplier shall ensure that it has ethical and human rights policies and an appropriate complaints procedure to deal with any breaches of such policies.

The Purchaser reserves the right upon reasonable notice (unless inspection is for cause, in which case no notice shall be necessary) to enter upon the Supplier's premises during business hours to monitor compliance by the Supplier of the warranties set out in this clause 19 and the Supplier shall, subject to compliance with law, furnish the Purchaser with any relevant documents requested by the Purchaser in relation thereto.