

**VIIV HEALTHCARE TRADING SERVICES UK LIMITED (SINGAPORE BRANCH)  
TERMS AND CONDITIONS OF PURCHASE (GOODS & SERVICES) (“Terms and Conditions”)**

**1. DEFINITIONS**

“**Affiliate**” means a corporation which is directly or indirectly Controlled by, in Control of, or under common Control with, either Supplier or Purchaser as appropriate.

“**Agreement**” means the agreement between Purchaser and Supplier consisting of the Purchase Order, these Terms and Conditions, the Specification(s), and any other documents (or parts thereof) specified in the Purchase Order or otherwise expressly incorporating these Terms and Conditions.

“**Control**” means the ownership of more than 50% of the voting share capital of any corporation or the legal power to direct or cause the direction of the general management of either Supplier or Purchaser as appropriate.

“**Foreign Supplier**” means a Supplier who is incorporated or registered for business in a country other than Singapore.

“**Goods**” means all (or any) of the goods covered by the Agreement including without limitation raw materials, processed materials or fabricated products.

“**GST**” means Goods and Services Tax charged in accordance with the Goods and Services Tax Act (Cap. 117A) on the supply of goods and services.

“**Incoterms**” means the Year 2000 edition of the official International Chamber of Commerce Rules for the interpretation of trade terms.

“**Intellectual Property Rights**” means any registered and unregistered trademarks, trade names, brand names, logos, trade dress, designs, patents (including applications for registration thereof) and any know how, copyright and database rights wherever subsisting.

“**Local Supplier**” means a Supplier who is incorporated or registered for business in Singapore.

“**Loss**” means all loss, damages, liability, claims, costs and expenses (including legal costs and expenses) but excluding any incidental or consequential damages.

“**Packaging**” means bags, cases, carboys, cylinders, drums, pallets and other containers.

“**Purchaser**” means the Viiv legal entity specified in the Purchase Order.

“**Purchase Order**” means an order placed by Purchaser which is either attached or overleaf.

“**Services**” means the services covered by the Agreement.

“**Specification(s)**” means the specification(s) detailed in a schedule to be attached to these Terms and Conditions, or as separately documented by Purchaser in writing which sets out the performance required of the Goods and Services.

“**Supplier**” means the person, firm (or any individual partner thereof) or company to whom the Purchase Order is addressed, and who will be supplying Goods or providing Services to Purchaser under the Agreement.

**2. STATUS OF TERMS AND CONDITIONS**

- 2.1 These Terms and Conditions supercede all other terms or conditions which are set out in any correspondence or documents issued by Supplier to Purchaser irrespective of their date of communication and acceptance of the Purchase Order constitutes acceptance of these Terms and Conditions and schedules (if any) attached.
- 2.2 In the event that the parties have entered into a negotiated written contract in respect of the Goods or Services, the terms and conditions of such written contract supercede these Terms and Conditions and shall apply to the Purchase Order for such Goods or Services.
- 2.3 In the event of inconsistency between these Terms and Conditions and the provisions appearing on the face of the Purchase Order, the former shall prevail, unless expressly provided otherwise on the Purchase Order.
- 2.4 Interpretation of the Purchase Order for the Goods and/or Services from Local Supplier will be according to the applicable Singapore law. In case of Foreign Supplier, where appropriate interpretation of the Purchase Order shall be governed by the provisions of Incoterms.
- 2.5 Purchaser will not be liable in respect of any Purchase Order(s) or instructions other than those issued or confirmed on its official letterhead or other official stationary of the Purchaser, and duly signed by its authorized person.

**3. TIME OF PERFORMANCE**

- 3.1 Unless otherwise instructed in writing by Purchaser’s nominated representative, all Goods must be delivered and all Services must be performed at the time and place specified in the Agreement.
- 3.2 Supplier shall provide Purchaser with:
  - (i) details of the anticipated lead times between placing an order and delivery of any Goods; and
  - (ii) working programmes for the Services as Purchaser may reasonably require within thirty (30) days of receipt of the Purchase Order. Supplier’s working programmes shall give details of its proposals for carrying out the Services within the time stipulated indicating the sequence and timing of all operations forming part of the Services. Supplier shall keep Purchaser informed of progress but notification of any delay in progress shall not relieve Supplier from complying with timelines originally specified.

- 3.3 Time shall be of the essence in relation to the performance of any and all of Supplier's obligations pursuant to the Agreement.
- 3.4 Purchaser may, by notice in writing to Supplier, cancel any delivery of Goods or Services which in Purchaser's opinion cannot be made within a reasonable time after the due date, without being liable to Supplier for such cancellation.

#### **4. PASSING OF PROPERTY AND RISK**

- 4.1 Unless Incoterms are agreed in case of Foreign Supplier, title in Goods and Services shall pass upon creation of the Goods and performance of the Services which comply with the Agreement but the risk in Goods and Services shall remain with Supplier until they are delivered at the place specified in the Agreement and a nominated employee of Purchaser signs a delivery note.
- 4.2 Neither payment by, nor passage of property or risk in the Goods or the Services to, Purchaser shall be deemed to constitute acceptance of the Goods or the Services by the Purchaser.

#### **5. CONTRACT PRICE AND TERMS OF PAYMENT**

- 5.1 The price stipulated in the Purchase Order as payable for the Goods and Services ("Purchase Price") (which shall be a firm fixed price), shall be exclusive of GST but inclusive of Value Added Tax and all other taxes, packaging and other related charges and (unless Incoterms are agreed in case of Foreign Supplier) inclusive of delivery and insurance. Any increase in the Purchase Price for any reason shall be subject to the express prior written consent of Purchaser.
- 5.2 Payment of the Purchase Price will be made by Purchaser to Supplier within sixty (60) days from receipt of invoice. GST, where applicable, will be shown separately on all invoices as a strictly net extra. Purchaser reserves the right to set off any sums in respect of which Supplier may be in default to Purchaser against the amount invoiced. Payment of an invoice shall not constitute acceptance by Purchaser of Goods or Services and does not relieve Supplier of its obligations under the Agreement.
- 5.3 The correct Purchase Order number must be quoted on all invoices and Purchaser will accept no liability whatsoever for invoices, delivery notes or other communications which do not bear the correct Purchase Order number.
- 5.4 To ensure payment in accordance with the above procedure all invoices must be received at the invoice address shown on the Purchase Order. All invoices shall be submitted in duplicate and be accompanied by a copy of the bill of lading if on collect freight shipments or if otherwise required by law, and by a prepaid freight bill if all or any part of the freight is included on the face of the Purchase Order. In addition to any other information specified elsewhere herein, invoices and packing slips shall contain the following information: description of Goods and Services, sizes, quantities, weight, unit prices and extended totals.
- 5.5 Purchaser shall be entitled to withhold payment of all disputed portions of invoices (without interest or penalty) until resolution of dispute, whereupon the agreed amount shall be paid within sixty (60) days of the date the dispute is resolved.
- 5.6 If any payment provided for hereunder is to be made on some basis other than a lump sum price, Purchaser shall have the right to inspect and audit Supplier's books, records and all associated documents relating to such costs (excluding, however, the basis for agreed upon fixed rates). In the event that any such audit or audits reveal any error or discrepancy of any nature whatsoever, such error or discrepancy will be promptly corrected, and all monies owing and due either to Purchaser or to Supplier will be promptly paid by the other party.
- 5.7 Where the Supplier is not required to assemble, construct or install the Goods at or on the Purchaser's Premises (as defined below):
- (i) the Supplier shall serve its payment invoices on the Purchaser in accordance with and at the time or times prescribed in the Purchase Order,
  - (ii) the Purchaser shall pay the Supplier all sums properly due under each payment invoice within the payment period referred to in the Purchase Order, provided that such period shall be subject to a maximum of 60 days as calculated from the date of service of the Supplier's payment invoice, and
  - (iii) where the sum paid by the Purchaser under sub-clause (ii) is less than the amount claimed in the Supplier's invoice, the Purchaser shall provide the Supplier with its reasons for such withholding or deduction on or before the expiry of the period referred to in sub-clause (ii).

- 5.8 Where the Supplier is required to assemble, construct and/or install the Goods at or on the Purchaser's Premises:
- (i) the Supplier shall serve its payment invoices on the Purchaser in accordance with and at the time or times prescribed in the Purchase Order,
  - (ii) if the Purchaser does not dispute the amount claimed by the Supplier under a payment invoice, the Purchaser shall pay the Supplier the amount claimed under such payment invoice within the payment period referred to in the Purchase Order, provided that such period shall be subject to a maximum of 56 days as calculated from the date of service of the Supplier's payment invoice, and
  - (iii) if the Purchaser disputes the amount claimed by the Supplier under a payment invoice, the Purchaser shall within 21 days of the Supplier's service of such payment invoice respond in writing to the Supplier, which response shall (a) state the amount that the Purchaser proposes to pay (the "**Response Amount**"), and (b) include all supporting reasons if payments are withheld or if the Response Amount is less than the amount claimed by the Supplier under its payment invoice. The Supplier shall issue a revised payment invoice for the Response Amount and the Purchaser shall pay the Supplier the amount claimed under such revised payment invoice within the payment period referred to in the Purchase Order, provided that such period shall be subject to a maximum of 35 days as calculated from the date of service of the Supplier's revised payment invoice.
- 5.9 Clauses 5.7 and 5.8 shall apply only if the Goods and Services provided pursuant to the Purchase Order falls within the categories of contracts for goods and services governed by the Building and Construction Industry Security of Payment Act (Cap. 30B). For the purposes of Clauses 5.7 and 5.8, references to "**days**" means any day other than a public holiday within the meaning of the Holidays Act (Cap. 126) and "Purchaser's Premises" means any site owned or leased or otherwise used by Purchaser.

## **6. QUALITY AND FITNESS FOR PURPOSE OF GOODS**

- 6.1 Supplier represents, warrants and undertakes that the Goods and Services:-
- (i) comply in all respects with the Specification(s) or samples and all modifications that may be agreed in writing between Supplier and Purchaser;
  - (ii) comply with all implied conditions, warranties and terms including those contained in the Sale of Goods Act (Cap. 383), the Supply of Goods Act (Cap.394), related statutes and any statutory re-enactment(s) or modifications thereof; and
  - (iii) are fit for the purpose for which they are intended, are of satisfactory merchantable quality, are free from all latent and patent defects in design, material and workmanship or otherwise.
- 6.2 Supplier undertakes that the Goods will be supplied with adequate instructions as to use and use-by date.
- 6.3 Should any work be required which is not specified in the Purchase Order but which, in the reasonable opinion of the Purchaser is nevertheless necessary for the proper supply of the Goods, Supplier shall perform this work and such work shall be deemed to have been included in the Purchase Price.
- 6.4 Supplier represents, warrants and undertakes that title to all Goods supplied shall be free and clear of all liens, encumbrances, security interests or other claims. In the event of a breach of this Clause, Purchaser may (without prejudice to any other rights or remedies) purchase from third party(s) goods which in Purchaser's opinion is an appropriate substitute for the Goods to be provided under the Agreement and Supplier shall indemnify Purchaser for all Loss suffered or incurred by Purchaser as a result thereof (including the difference between the Purchase Price and the price payable to such third party(s)).

## **7. REJECTION, REPAIR AND REPLACEMENT**

- 7.1 If Goods or Services do not conform to the requirements of the Agreement (including without limit non-conformance with quantity specified, time for performance, quality or any Specifications in respect thereof), without prejudice to Purchaser's other legal rights, Supplier shall, at Purchaser's sole option:
- (i) immediately (and in any event within fourteen (14) days) after receipt of notice from Purchaser, either :-
    - (a) repair the defective Goods and Services at the site of delivery or Supplier's works;
    - (b) replace the defective Goods and Services at the site of delivery or Supplier's works with goods and services which conform to the requirements of the Agreement; or
    - (c) refund to Purchaser the Purchase Price of Goods and Services and pay to Purchaser all costs incurred by Purchaser including but not limited to freight, clearance, duty and storage charges relating to such Goods and Services. Repairs, replacements and refunds shall themselves be subject to the obligations in this Agreement and Supplier shall be responsible for all costs and expenses incurred in such repairs, replacements and refunds to the correct point specified in the Agreement or to such other location as may be subsequently advised in writing by Purchaser; and/or

(ii) purchase goods and services from third party(s) which in Purchaser's opinion is an appropriate substitute for the Goods and Services to be provided under the Agreement; and/or

(iii) forthwith suspend all payment obligations in relation to such Goods and Services.

Supplier shall indemnify Purchaser for all Loss suffered or incurred by Purchaser as a result of Goods or Services not conforming to the requirements of the Agreement (including the difference between the Purchase Price and the price payable to third party(s) under sub-clause (ii));

- 7.2 Without limiting the foregoing, Purchaser shall be entitled to reject any and all Goods and Services delivered or performed if the quantity delivered is less than or in excess of those specified in the Agreement and Purchaser shall be entitled to at its sole discretion, reject the Goods and Services in its entirety even if only part of the Goods and Services is defective or do not comply with the Agreement.
- 7.3 If Purchaser elects to accept non-conforming Goods or Services, Purchaser, in addition to its other remedies, shall be entitled to an appropriate reduction in the Purchase Price.
- 7.4 Without prejudice to Purchaser's other legal rights, Supplier shall, at Purchaser's sole option, with all possible speed and at Supplier's risk and expense, replace repair or otherwise make good any Goods or Services which are or become defective during the Guarantee Period. Unless otherwise stated in Purchase Order, the Guarantee Period shall be twelve (12) months after the date of actual commissioning of the Goods or Services or of the facility into which Goods and Services are incorporated, or eighteen (18) months from the actual date on which Goods and Services are delivered to Purchaser at the place and in accordance with the conditions stated in the Purchase Order, whichever is later. If it is necessary to return the Goods or part thereof to Supplier for repair of a defect or replacement, Supplier shall be liable for all costs and risks associated with the return and re-supply, including but not limited to, the cost of removal and/or dismantling of such defective Goods and the reinstallation of the replaced or repaired Goods.
- 7.5 If Supplier replaces or renews or modifies any part of the Goods or Services, a new Guarantee Period of twelve (12) months after the date of actual commissioning of the replaced or renewed or modified Goods or Services or of the facility into which such Goods and Services are incorporated, or eighteen (18) months from the actual date on which replaced, renewed or modified Goods and Services has been delivered to Purchaser at the place and in accordance with conditions stated in the Purchase Order, whichever is later.

## **8. STANDARD OF SERVICES**

- 8.1 Supplier undertakes that Services:
- (i) shall be performed in a good and workmanlike fashion and with all due speed, care, skill and diligence. Supplier shall furnish the working programmes for the Services as Purchaser may reasonably require within 30 days of receipt of the Purchase Order. Supplier's working programmes shall give details of its proposals for carrying out the Services within the time stipulated indicating the sequence and timing of all operations forming part of the Services; and
- (ii) shall be carried out in accordance with the Agreement, with current industry standard codes of practice, and the highest standards prevailing in Supplier's industry. Supplier shall ensure that all of its personnel and sub-contractors are suitably qualified to perform the Services and that all necessary licences, work permits or other authorisations have been obtained and will be maintained for the duration of the performance of the Services.
- 8.2 Supplier represents, warrants and undertakes that title to all Services supplied shall be free and clear of all liens, encumbrances, security interests or other claims. In the event of a breach of this Clause, Purchaser may (without prejudice to any other rights or remedies) purchase from third party(s) services which in Purchaser's opinion is an appropriate substitute for the Services to be provided under the Agreement and Supplier shall indemnify Purchaser for all Loss suffered or incurred by Purchaser as a result thereof (including the difference between the Purchase Price and the price payable to such third party(s)).
- 8.3 Should any work be required which is not specified in the Purchase Order but which, in the reasonable opinion of the Purchaser is nevertheless necessary for the proper supply of the Services, Supplier shall perform this work and such work shall be deemed to have been included in the Purchase Price.
- 8.4 If any materials which are required by Purchaser for the provision of the Services are not delivered fully in accordance with any stipulations in the Agreement, Supplier shall, without limiting Purchaser's other remedies, immediately effect correct delivery and shall be responsible for any additional costs and expenses incurred by both parties in so doing.

**9. PACKAGING**

Supplier will package and label the Goods in a manner suitable for transit and storage at no cost to Purchaser. Purchaser will not pay for or return Packaging materials unless previously agreed in writing between the parties. Packaging must comply with all relevant legislative requirements, including those pertaining to environment and occupational health and safety standards. Supplier will investigate potential environmental improvements to Packaging and will, where practicable, use minimal Packaging, recyclable Packaging and recycled materials as appropriate.

**10. INTELLECTUAL PROPERTY RIGHTS**

- 10.1 Supplier shall, at its own cost and expense, defend any and all actions for infringements or alleged infringements of Intellectual Property Rights in connection with the Goods or Services and Supplier undertakes to indemnify Purchaser for all Loss which Purchaser suffers or incurs in connection with such actions, provided that Purchaser gives Supplier all appropriate information and assistance and the sole authority to defend or settle any legal proceedings at Supplier's sole expense.
- 10.2 Purchaser retains Intellectual Property Rights in, and ownership of, all materials, plans, drawings, Specification(s), patterns and/or designs provided by Purchaser to Supplier, and they shall all be forthwith returned in good condition to Purchaser at Purchaser's request.
- 10.3 Where Goods are made to Purchaser's Specification(s), model or plans, the Intellectual Property Rights in the Goods in so far as they relate to the Specification(s), model or plans (including all improvements or developments thereof) shall be the absolute property of the Purchaser upon creation and shall thereafter remain the property of Purchaser, and the Supplier hereby irrevocably assigns all such Intellectual Property Rights to the Purchaser at no fee to the Purchaser.
- 10.4 Intellectual Property Rights arising during or out of the provision of Services shall be the property of Purchaser upon creation and shall thereafter remain the property of Purchaser and Supplier hereby agrees to assign all such Intellectual Property Rights to the Purchaser.
- 10.5 To the extent that Supplier or third parties retain ownership rights in materials delivered with the Goods, or upon which the Goods or Services are based, Supplier hereby grants to Purchaser an irrevocable, worldwide, non-exclusive, royalty-free right and license to make, have made, modify, use, distribute, publicly perform or display, sell, offer to sell, and import such materials. Supplier hereby warrants that it owns or has acquired rights in all such intellectual property necessary to grant the licences and intellectual property rights set forth in this Clause 10.
- 10.6 In the event that the Intellectual Property Rights relating to the Goods and Services are held by the courts to infringe a third party's rights, and their use is enjoined by that third party, Purchaser shall be entitled to, at its sole discretion but at Supplier's sole cost and expense:
  - (i) require Supplier to immediately (and in any event within fourteen (14) days) after receipt of notice from Purchaser, either :
    - (a) procure for Purchaser the right to continue using the Goods and Services; or
    - (b) replace the Goods and Services with non-infringing Goods and Services; or
    - (c) modify the Goods and Services so that they become non-infringing without detracting from their overall performance and functionality; or
  - (ii) purchase goods and services from third party(s) which in Purchaser's opinion is an appropriate substitute for the Goods and Services to be provided under the Agreement. Supplier shall indemnify Purchaser for all Loss suffered or incurred by Purchaser as a result of such infringement (including the difference between the Purchase Price and the price payable to third party(s) under sub-clause (ii)) and/or due to the interference or discontinuation of the use of Goods and/or Services.

**11. CONFIDENTIALITY AND PUBLICITY**

- 11.1 Supplier shall, and shall procure that its employees and sub-contractors shall, keep secret any Intellectual Property Rights, Specification(s) or other information of a commercial or technical nature disclosed directly or indirectly to Supplier by Purchaser for the purpose of the Agreement, and shall not use or disclose the same (including any part thereof) to any third party without Purchaser's prior written consent.
- 11.2 Without limiting the foregoing, Supplier shall not without Purchaser's prior written consent disclose, copy, publicize or publish, the existence of the Agreement or any information related to the Agreement including the name of Purchaser, the Goods or Services, and the place of delivery or performance.

- 11.3 Upon Purchaser's request at any time, Supplier shall: (i) cease any and all use of the Information; (ii) promptly return to Purchaser any and all tangible information, including all copies, reproductions, summaries, memos, correspondence and compilations of the information, so Supplier will no longer have any information in its possession or under its control in either electronic or paper or other format; and (iii) cease any and all work hereunder and refrain from, directly or indirectly, using the information.

## **12. FORCE MAJEURE**

- 12.1 Neither party shall be liable for, nor be deemed to be in default, on account of any delay in completion or the performance of any act under the Agreement due to circumstances which could not have been contemplated by the parties and which are beyond the party's reasonable control and not due to any default or negligence of a party ("Force Majeure"), provided that the party claiming hereunder shall notify the other with all possible speed specifying the cause and probable duration of the delay or non-performance and shall minimise the effects of such delay or non-performance. For clarity, this shall include a right by Purchaser to suspend any shipment of Goods or performance of Services without penalty or liability.
- 12.2 If the performance by either party of any of its obligations under the Agreement is prevented or delayed by Force Majeure:
- (i) for a consecutive period in excess of seven (7) days, the parties shall enter into bona fide discussions with a view to alleviating its effects, or to agreeing upon such alternative arrangements as may be fair and reasonable in the circumstances.
  - (ii) for a period in excess of thirty (30) days (not necessarily consecutive), then either Party shall in its discretion have the right to immediately terminate the Agreement upon written notice to the other Party.

## **13. COMPLIANCE WITH STATUTES AND REGULATIONS**

- 13.1 Supplier shall comply fully at all times with all applicable laws, regulations and other legal requirements including anti-corruption laws and those relevant to the regulation of pharmaceutical, nutritional and cosmetic products, health, safety, environment, welfare, production, storing, handling and delivery of the Goods and performance of the Services.
- 13.2 Supplier shall provide evidence of compliance with such legal requirements (including, permits, inspection reports, certificates of analysis etc.) promptly on request and in any event within a reasonable time. Supplier shall ensure that its sub-contractors comply with the requirements of this Clause 13.
- 13.3 Supplier shall use its best endeavours to comply with all reasonable requests of Purchaser to minimise Purchaser's compliance costs in respect of applicable data protection, health, safety, environmental and producer responsibility obligations.
- 13.4.1 Supplier agrees that it has not, and covenants and that it will not, in connection with the performance of the Agreement, directly or indirectly, promise, authorise, ratify or offer to make or make any "payments" of "anything of value" (as defined below) to any individual (or at the request of any individual) including a Government Official for the improper purpose of influencing or inducing or as a reward for any act, omission or decision to secure an improper advantage or to improperly assist the Supplier or the Purchaser in obtaining or retaining business.
- 13.4.2 Supplier shall ensure that all transactions under the Agreement are properly and accurately recorded in all material respects on its books and records and each document upon which entries such books and records are based is complete and accurate in all material respects. Supplier must maintain a system of internal accounting controls reasonably designed to ensure that it maintains no off-the-books accounts.
- 13.4.3 Supplier agrees that Purchaser may make full disclosure of information relating to a possible violation of the terms of these anti-bribery and corruption requirements at any time and for any reason to any competent government bodies and its agencies, and to whomsoever Purchaser determines in good faith has a legitimate need to know.
- 13.4.4 Supplier agrees that it has not, and covenants and that it will not, in connection with the performance of the Agreement, directly or indirectly, promise, authorise, ratify or offer to make or make any Facilitating Payments to any individual (or at the request of any individual) including a Government Official. 13.4.5. For the purpose of this "anything of value" includes cash or cash equivalents, gifts, services, employment offers, loans, travel expenses, entertainment, political contributions, charitable donations, subsidies, per diem payments, sponsorships, honoraria or provision of any other asset, even if nominal in value; "Facilitating Payments" otherwise known as "greasing payments" shall mean a payment to an individual to secure

or expedite the performance of a routine government action by government officials;  
“Government Official” means (i) any officer or employee of a government or any department, agency or instrument of a government; (ii) any person acting in an official capacity for or on behalf of a government or any department, agency, or instrument of a government; (iii) any officer or employee of a company or business owned in whole or part by a government; (iv) any officer or employee of a public international organisation such as the World Bank or United Nations; (v) any officer or employee of a political party or any person acting in an official capacity on behalf of a political party; and/or (vi) any candidate for political office; and  
“payments” refers to and includes any direct or indirect offers to pay, promises to pay, authorisations of or payments of anything of value.

#### **14. INSPECTION**

- 14.1 Purchaser, and all third party it appoints, shall have the right upon prior notice to inspect and carry out any tests, or batch sampling, it wishes on all Goods and Services at Supplier's premises and the premises of any sub-contractors. Where pre-shipped inspection is specified, Supplier must, at its sole expense facilitate the same and provide any or all relevant certificates of analysis to Purchaser upon request.
- 14.2 Supplier shall, and shall ensure that its sub-contractors shall, grant a right of access to Purchaser and all third party it appoints in order to inspect and test the Goods for compliance with relevant environmental, occupational health and safety legislation and other requirements such as Purchaser's standards.
- 14.3 Any inspections, tests, approvals or acceptance given by or on behalf of Purchaser in relation to the Goods or Services shall not relieve Supplier from its obligations or liabilities under the Agreement.
- 14.4 Notwithstanding any prior inspections or payments hereunder, all Goods and Services shall be subject to final inspection, which may include measurement, testing or examination, and acceptance at Purchaser's facility within a reasonable time (but not less than ninety (90) days) after receipt at destination. Inspection or acceptance by Purchaser does not relieve Supplier of any obligations or liabilities under the Agreement.

#### **15. DATA PRIVACY**

Each party warrants that it will not process the personal data of staff, employees and/or sub-contractors working for the other party to which they have been granted access, or which have otherwise been made available for the purpose of the Agreement. Each party agrees to indemnify the other in consequence of any breach of this Clause or any claim by an employee or sub-contractor of the other party that his/her rights have been infringed.

#### **16. HAZARDS**

- 16.1 Supplier shall, and shall ensure that its staff and those of any sub-contractor shall, when working on any site in connection with the Agreement, comply with all relevant environmental, occupational health and safety legislation and any other appropriate standards, policies and procedures notified by Purchaser.
- 16.2 Supplier will provide applicable hazard information such as material safety data sheets and will inform Purchaser of all regulations and guidance (statutory or otherwise) which Supplier knows or believes to be associated with the Goods and any combination of the Goods with another product.
- 16.3 Supplier shall indemnify Purchaser against all Loss related to any third party claim which arises from Supplier's or Supplier's sub-contractors' actions resulting in alleged release of any waste, hazardous substance or other pollutant.
- 16.4 Supplier undertakes to exceed statutory minimum environmental, occupational health and safety requirements in accordance with generally accepted best working practices and any specific standards or other requirements of Purchaser.

#### **17. RESPONSIBILITY FOR INFORMATION**

Supplier shall be responsible for all errors or omissions in any drawings, calculations, Packaging details or other particulars supplied by Supplier, whether such information has been approved by Purchaser or not, provided that such errors or omissions are not due to inaccurate information furnished in writing by Purchaser.

#### **18. SUPPLIER'S EMPLOYEES**

- 18.1 For the duration of the period that any Goods or Services are being provided, the employment of any employee of Supplier shall remain with Supplier and shall not pass or otherwise transfer to Purchaser and nothing in the Agreement shall be construed or have any effect as constituting any relationship of employer and employee between Purchaser and the employees of Supplier and/or sub-contractors of Supplier. Supplier agrees that it is performing the Services as an

independent contractor and will retain all responsibility for payment of any employee-related taxes, Central Provident Fund and/or taxation that may arise from the provision of the Services, indemnify and hold ViiV harmless from and against any and all such costs (including without limitation to legal costs on an indemnity basis), expenses, losses, liabilities, claims or demands which ViiV suffers or incurs as a result of Supplier's failure to comply with these requirements.

- 18.2 Supplier shall deal with all issues relating to the employment or engagement of the Supplier's employee including without limitation: disciplinary and performance issues; grievances; issues relating to the employee's ill health; and issues relating to Supplier's terms and conditions of employment or engagement. Supplier shall inform its employee that he/she is not an employee of Purchaser or entitled to any of the employment rights or benefits which would be applicable to Purchaser's own employees, including participation in any Purchaser's employee benefit plan, incentive, compensation or other employee policy or programme.
- 18.3 Supplier shall comply with Purchaser's Pre-Engagement Screening ("PES") requirements in respect of each employee and shall also comply with any changes to such PES requirements as notified by Purchaser to Supplier from time to time. The Purchaser's Standard PES process is based on the minimum requirements attached hereto as Schedule 1 which may be amended from time to time. At the sole discretion of Purchaser, Purchaser may require Supplier to carry out additional checks and investigations on specified employee in addition to the minimum PES requirements.
- 18.4 Prior to the engagement of any employee and/or prior to the employee carrying out the Service, Supplier shall conduct the Purchaser's Standard PES process on its employees. Purchaser shall be entitled upon request to enter into Supplier's premises and inspect, audit and examine all documentation relating to the PES requirements and/or evidencing implementation of the relevant PES requirements by the Supplier. Purchaser reserves the right to screen any of Supplier's employees or proposed additional or replacement employee at any time.
- 18.5 Supplier will ensure that all employees will wear such identification as Purchaser deems necessary when on the Site and shall procure the employees' compliance with any security guidelines as set out by Purchaser.
- 18.6 Supplier will ensure that all its employees comply with certain Purchaser's global (including human resource policies) as a minimum standard. These policies are those which relate to matters of honesty, integrity, respect for others and the protection of personal data.
- 18.7 Supplier will provide each employee with copies of the current relevant Purchaser policies, as provided by Purchaser to Supplier from time to time.
- 18.8 Without prejudice to any of the foregoing, Supplier shall not employ or engage any foreign employee without valid work permits or employment passes and/or in any manner in contravention of the Immigration Act, Employment Act and/or Employment of Foreign Manpower Act or any other statutory enactment in force at the time; and shall indemnify and keep indemnified Purchaser and its officers and employees from any and all liability that may arise by reason of breach of this obligation.

## **19. SOFTWARE DEFECTS**

- 19.1 Supplier warrants that Goods, computer hardware and software supplied by Supplier to Purchaser (the "Products"):
  - (i) are free from defects and/or disabling codes, and have been duly tested to ensure that there are no hidden defects or disabling codes and are subject to recognised and appropriate release procedures including the latest version of a proprietary virus detection software package approved by Purchaser, and Supplier shall procure that corresponding obligations are imposed with its sub-contractors or agents;
  - (ii) have been obtained from a reputable and reliable software developer and not through any interest group or multi-organisational software sharing scheme;
  - (iii) will comply with and function substantially in accordance with their related user documentation; and
  - (iv) shall not breach any third party's Intellectual Property Right.
- 19.2 Supplier shall indemnify and hold Purchaser harmless against any and all Losses suffered or incurred by Purchaser as a result of Supplier's breach of the above warranties.

## **20. LIABILITY AND INSURANCE**

- 20.1 Supplier shall indemnify Purchaser and its Affiliates against all Loss incurred or suffered by Purchaser and its Affiliates howsoever arising from any defect in the Goods or Services or any breach by Supplier of its obligations hereunder or of any statutory duty or from any negligence, act or omission of Supplier's employees, agents or sub-contractors.



- 20.2 Supplier shall insure with a reputable insurance company its liabilities under the Agreement based on the value of the Goods and Services to be provided per event in a minimum amount of the value of the Agreement (local currency) and if so required at any time produce the policy of insurance and the receipt for the current premium to Purchaser for its inspection. Supplier agrees that any monies received by Supplier from the insurance company in full or part settlement of a claim arising out of the Agreement and paid by or due to Purchaser shall be paid immediately to Purchaser without offset or counter claim.
- 20.3 Supplier shall add Purchaser as an additional insured on each of Supplier's insurance policies above. Supplier also agrees to waive and will require its insurers to waive all rights of subrogation against Purchaser, its Affiliates and their respective directors, officers, and employees as it relates to this Agreement on all insurance coverage. If Supplier at any time neglects or refuses to provide or cause to be provided the insurance required herein, or if such insurance is cancelled, without prejudice to any other rights or remedies available to Purchaser, Purchaser shall have the right to (but shall not be obliged to) procure such policy and coverage as Purchaser deems appropriate and to deduct a sum equivalent to the amount paid by Purchaser in respect of premiums for such insurance policies from any monies due or to become due to Supplier or to recover the same or any balance thereof remaining unpaid as a debt due from Supplier to Purchaser. Supplier shall not commence work until all of the insurance required herein shall have been obtained and approved by Purchaser.
- 20.4 Any limitation, monetary or otherwise in such policy shall not be construed as a limitation on Supplier's liability and Supplier shall, notwithstanding such limitation, remain liable in full for the matters and to the extent not covered by the policy.
- 20.5 Purchaser's remedies shall be cumulative and remedies herein specified do not exclude any remedies allowed by law or in equity.
- 20.6 In no event shall Purchaser be liable for any consequential, (including, without limitation, lost profits and business interruption whether or not such damages are foreseeable) incidental, indirect, special, economic or punitive damages arising out of or related to the breach or repudiation of contract, breach of warranty, negligence or otherwise, even if Supplier has been advised of the possibility of such damages.

## **21 ASSIGNMENT**

- 21.1 Supplier's rights and obligations under the Agreement may not be assigned in whole or in part without the prior written consent of Purchaser (acting in its sole discretion) and any such consent shall not be deemed to relieve Supplier of any of its obligations and liability to Purchaser pursuant to the Agreement.
- 21.2 Purchaser shall be entitled at any time by notice in writing to Supplier to assign the whole or any part of its rights and obligations under the Agreement to any Affiliate or to any successor in title to the whole or part of that part of Purchaser's business which relates to the Goods or Services.

## **22. THIRD PARTY RIGHTS**

No person who is not a party to the Agreement, other than an assignee of any right or obligation assigned pursuant to Clause 22 shall have any rights under the Contracts (Rights of Third Parties) Act Cap. 53B to enforce any term or condition of the Agreement except for Purchaser's Affiliates who shall be entitled to enforce rights granted to it under the Agreement.

## **23. SUB-CONTRACTORS**

Supplier shall not, without the prior written consent of Purchaser, appoint any sub-contractor or any person or persons to carry out all or any of its obligations under the Agreement. In the event that Supplier appoints a sub-contractor or other person to perform its obligations Supplier shall remain liable to Purchaser for the performance of all Supplier's obligations and shall ensure that any such sub-contractor or other person reads and understands the implications of the Agreement. Supplier shall, by entering into a separate agreement or otherwise, further ensure that such sub-contractor or other person shall be subject to and shall adhere to the same obligations imposed on Supplier under the Agreement.

## **24 TERM AND TERMINATION**

- 24.1 Subject to Clause 24.1A and Clause 25.3, if either party to the Agreement is in breach of the Agreement and does not remedy the breach within thirty (30) days of notice from the other party so to do (if capable of remedy) the other party may terminate the Agreement immediately by notice to the party in breach.
- 24.1A Purchaser shall be entitled, in the event of breach of Clause 13 by Supplier, to immediately terminate the Agreement by

written notice to Supplier. Supplier shall have no claim against Purchaser for compensation for any loss of whatever nature by virtue of the termination of the Agreement in accordance with this Clause 24.1A.

- 24.2 If Supplier shall become bankrupt, dissolved, wound up, or shall compound or make any arrangement with its creditors or have a receiver, administrative receiver, liquidator or provisional liquidator appointed over all or any part of its assets or go into liquidation (whether voluntary or otherwise) save as part of a bona fide reconstruction not involving insolvency or shall take or suffer to be taken any similar action as a result of its liability to pay its debts or its insolvency it shall promptly so notify Purchaser in writing giving particulars of the circumstances whereupon Purchaser may terminate the Agreement immediately by notice. For the avoidance of doubt, Purchaser may terminate the Agreement upon the occurrence of any of the circumstances described in this Clause notwithstanding that Supplier may not have given notice to Purchaser as required.
- 24.3 If at any time during the term of the Agreement there shall be any change in the legal or beneficial ownership or Control of Supplier:  
(i) Supplier shall immediately so notify Purchaser in writing; and  
(ii) Purchaser may, upon receiving notice or otherwise becoming aware of a change in Control of Supplier, terminate The Agreement immediately by notice in writing to Supplier if it considers in its sole discretion that such change in Control are prejudicial to its interests. For the avoidance of doubt, Purchaser may terminate the Agreement if it considers in its sole discretion that such change in Control are prejudicial to its interests notwithstanding that Supplier may not have given notice to Purchaser as required.
- 24.4 Purchaser may terminate the Agreement without cause, by giving Supplier thirty (30) days' written notice of such termination, and without any liability to Supplier for such termination.

## **25. CONSEQUENCES OF TERMINATION**

- 25.1 On termination of the Agreement, Supplier shall:  
(i) not later than seven days after Purchaser's request, deliver to Purchaser (or as Purchaser shall direct) all quantities of the Goods in its possession which comply with the Agreement save that in the event of termination of the Agreement due to Supplier's breach, Purchaser shall be entitled to reject all quantities of Goods in Supplier's possession even if they comply with the Agreement;  
(ii) comply with Clause 11.3; and  
(iii) ensure that all documents containing Intellectual Property Rights and/or any information of a technical nature relating to the Goods, the manufacture of the Goods and the provision of Services, or of a confidential nature and supplied directly or indirectly by Purchaser to Supplier, are, at Purchaser's option, either forthwith returned to Purchaser or destroyed by Supplier.
- 25.2 A fair and reasonable price will be paid for the Goods and Services which comply with the Agreement and which have been delivered to Purchaser and/or for all Services in progress that have been performed by Supplier. Purchaser's liability is limited to the said Goods and Services in progress, and no further loss or liability will accrue on their account.
- 25.3 Termination or expiry shall not relieve either party from any liability or action accrued prior to such termination or expiry.
- 25.4 With effect from termination or expiry of the Agreement Supplier shall not make any use for any purpose whatsoever of any Intellectual Property Rights which is the property of the Purchaser.
- 25.5 Termination or expiration of the Agreement or withdrawal of any Goods or Services from the Agreement shall be without prejudice to the continuation in force of any condition which by their nature or effect need to or are intended to survive termination or expiration of the Agreement including without limitation Clauses 1, 2, 10, 11, 21, 22 and 29. Supplier agrees to provide Purchaser with all reasonable support with respect to any investigation required by Purchaser or any regulator carried out prior or after such termination or withdrawal with respect to the Goods delivered / manufactured or Services carried out prior or after such termination or withdrawal. Purchaser will reimburse Supplier's reasonable costs in providing such assistance unless such termination or withdrawal has occurred for a reason contained in Clause 24.1, 24.1A, 24.2 or 24.3.

## **26. POLICIES AND PROCEDURES**

- 26.1 Purchaser shall notify Supplier of relevant policies / procedures which may be applicable from time to time and which Supplier should follow in the supply of Goods and/or Services in this Agreement. Purchaser shall provide copies of such policies / procedures where appropriate.

26.2 Supplier agrees to comply with all Purchaser's rules, regulations and requirements with respect to conduct and the health, safety and protection of persons and property, while on Purchaser's or its Affiliate's premises.

**27. WAIVER**

No waiver or forbearance by Purchaser in enforcing any of its rights under the Agreement shall prejudice or affect the ability of Purchaser to enforce any of its other rights. No waiver shall be effective unless in writing and signed by Purchaser. For the avoidance of doubt, it is agreed that a waiver of a right on one occasion shall not constitute a waiver of the same right in the future.

**28. SEVERABILITY**

Any provision of these Terms and Conditions which is declared void or unenforceable by any competent authority or court shall to the extent of such invalidity or unenforceability be deemed severable and shall not affect the other provisions of these Terms and Conditions, which shall continue unaffected.

**29. AMENDMENT**

The Agreement may only be amended in writing by authorised representatives of both parties.

**30. DISPUTE RESOLUTION**

30.1 The Parties will attempt in good faith to negotiate a settlement to any dispute arising out of or in connection with the Agreement, including any question regarding its existence, validity or termination.

30.2 Save as provided for in Clause 30.3 below, if parties fail to reach agreement within sixty (60) days after a party first gives written notice to the other party of any such dispute, then the dispute shall be referred by either party to arbitration and be finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC") for the time being in force, which rules are deemed to be incorporated by reference in this Clause. The Tribunal shall consist of three (3) arbitrators appointed by the Chairman of the SIAC and the language of arbitration shall be English.

30.3 For any dispute arising pursuant to Clauses 6, 7 and/or 8 ("Technical Dispute"), if parties are unable to reach a mutual agreement regarding the Technical Dispute within thirty (30) days after a party first gives written notice to the other party of any such Technical Dispute, the parties shall agree on an independent expert (not an arbitrator) within thirty (30) days of failure by parties to reach a mutual agreement on such Technical Dispute. If parties fail to reach a mutual agreement on who to appoint as independent expert within the abovementioned thirty (30) days, the Technical Dispute shall be referred by either party to arbitration and be finally resolved by arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC") for the time being in force, which rules are deemed to be incorporated by reference in this Clause. The Tribunal shall consist of three (3) arbitrators appointed by the Chairman of the SIAC and the language of arbitration shall be English.  
In the event that parties agree on the independent expert to be appointed, the decision of such independent expert shall be final and binding as to the Technical Dispute and as to which party should pay his fees, the default result being that the fees shall be borne by the party against whom the expert's decision is given. If the expert finds that any delivery of the Goods or Services has not complied with the Agreement, Purchaser shall have the rights stated in Clauses 6, 7 and 8 relating to defective Goods or Services (as the case may be). If the expert finds that the Goods and Services comply with the Agreement, Purchaser shall pay for such Goods and Services in accordance with the payment provisions contained in the Agreement.

**31. GOVERNING LAW AND JURISDICTION**

The construction, validity and performance of the Agreement shall be governed by the Laws of Singapore, and both parties hereby submit to the non-exclusive jurisdiction of the Singapore Courts.