

## About this document

These General Terms and Conditions of Purchase ('GTCs') apply to all purchase orders issued by Viva Energy for the supply of Goods and/or Services, unless otherwise agreed in writing. By accepting a purchase order, the Supplier agrees to be bound by these terms, which form part of the contract between Viva Energy and the Supplier. These terms apply in addition to any specifications, schedules, or other documents referenced in the purchase order. In the event of any inconsistency, the terms of the purchase order shall prevail to the extent of the inconsistency.

**Appendix 1 – Special Conditions for Goods for Resale** applies where the Goods are intended for resale by Viva Energy through retail, convenience, or other commercial channels.

**Appendix 2 – Special Conditions for Software and IT Supplies** applies where the Supplies include software, IT systems, digital platforms, or related services.

**Appendix 3 – Special Conditions for Critical Supplies** applies where the Supplies are “Critical Supplies” as defined in Appendix 3.

## 1 Application of these GTCs

- 1.1 The Supplier agrees to be bound by these GTCs for all Supplies made to Viva Energy (as defined below), unless otherwise expressly agreed in writing.
- 1.2 To the extent permitted by law and to the extent the Supplier's terms and conditions are supplied to Viva Energy in respect of the Supplies (including as printed on delivery notes or other documents), those terms and conditions will be of no legal effect and will not constitute part of this Purchase Order (even if any representative of Viva Energy signs those terms and conditions or annexes the terms and conditions to this Purchase Order).
- 1.3 The Supplier agrees a Purchase Order does not prevent Viva Energy from entering into arrangements or agreements with third parties for the purchase of any goods, software or services which are the same as or like the Supplies.
- 1.4 The Supplier will be deemed to have accepted a Purchase Order if:
  - (a) the Supplier does not reject the Purchase Order in writing to Viva Energy within 48 hours of its receipt of the Purchase Order; or
  - (b) after receipt of the Purchase Order, the Supplier performs any part of the Purchase Order.

## 2 Definitions

- 2.1 In these GTCs unless the context otherwise requires:

<b>Goods</b>	means any tangible items, products, materials, equipment, or other physical deliverables to be supplied by the Supplier under the Purchase Order, including any packaging, labelling, and documentation required for delivery, resale, or use.
<b>person</b>	means an individual, corporation, partnership, company, trust, association, or other legal entity (including a vessel if the context requires)
<b>Personnel</b>	means, in relation to a party, its officers, employees, agents, contractors, and subcontractors (including employees of subcontractors), and any other individuals engaged in the performance of that party's obligations under the Purchase Order.
<b>Purchase Order</b>	means a document entitled "Purchase Order" which is issued by Viva Energy to the Supplier to order any Goods and/or Services. A Purchase Order incorporates these GTCs and any other document which is attached to, or incorporated by reference in, the Purchase Order or these GTCs.
<b>Services</b>	means any services, work, tasks, functions, or activities to be performed by the Supplier specified as such in a Purchase Order or otherwise arising in respect of a Purchase Order (including services ancillary to or necessary for the supply of Goods) including installation, maintenance, support, consulting, training, or other professional services, whether provided on-site or remotely.
<b>Supplier</b>	means the person, company, or other legal entity identified in the Purchase Order as the provider of the Supplies.
<b>Supplies</b>	means all Goods and/or Services to be provided by the Supplier under the Purchase Order, including any associated deliverables, documentation, licences, warranties,

	and support, as specified in the Purchase Order or otherwise agreed in writing.
<b>Viva Energy</b>	means the Viva Energy company named in the Purchase Order and where the context requires its Related Bodies Corporate.
<b>Viva Energy Group</b>	means Viva Energy and its Related Bodies Corporate as defined in the <i>Corporations Act 2001</i> (Cth).
<b>Viva Energy Policies</b>	means the Viva Energy Group Business Principles and Code of Conduct and Viva Energy Responsible Sourcing Policy and Supplier Code of Conduct, as published online at <a href="https://www.vivaenergy.com.au/our-company/corporate-governance">https://www.vivaenergy.com.au/our-company/corporate-governance</a> and on Viva Energy's Supplier Central webpages at <a href="https://www.vivaenergy.com.au/about-us/suppliers-and-contractors">https://www.vivaenergy.com.au/about-us/suppliers-and-contractors</a> as updated from time to time.

### 3 General performance of the Supplies

- 3.1 In consideration of payment of the Price by Viva Energy, the Supplier must supply the Supplies to Viva Energy in accordance with the Purchase Order.
- 3.2 With respect to the supply of the Supplies, the Supplier must:
- be aware of and comply with and ensure their Personnel are aware of and that the Supplies comply with all applicable laws;
  - obtain at the Supplier's own expense, any necessary licences, permits, qualifications, registrations and other statutory permissions necessary for the performance of its obligations under this Purchase Order;
  - on request by Viva Energy, provide Viva Energy and its Personnel any information and assistance required to identify, evaluate, implement and report on any matter required by law in respect of anything used, produced or created in connection with the performance of the Supplier's obligations under this Purchase Order; and
  - comply with all Viva Energy Policies, including all reasonable directions and safety requirements communicated to the Supplier by Viva Energy.
- 3.3 Where the Supplier is required to enter or to perform services on a Viva Energy site, the Supplier must comply with all applicable site-specific policies, procedures, safety requirements, and directions issued by Viva Energy or its authorised representatives. The Supplier is responsible for ensuring that its Personnel are appropriately trained, inducted, and equipped to safely carry out the services. Viva Energy reserves the right to deny site access or suspend work if the Supplier fails to meet these obligations.

### 4 Delivery and acceptance

- 4.1 The Supplier must deliver the Goods and/or perform the Services in accordance with the delivery dates, timeframes, locations, and other requirements and standards specified in the Purchase Order or otherwise agreed in writing between the parties.
- 4.2 Delivery of Goods or completion of Services does not constitute acceptance by Viva Energy. Viva Energy will inspect the Goods and/or review the Services within a reasonable period after delivery or completion. Acceptance will only occur once Viva Energy confirms in writing that the Goods or Services conform to the requirements of the Purchase Order.
- 4.3 The Supplier must promptly notify Viva Energy in writing of any actual or anticipated delay in the delivery of all or any part of the Supplies. Such notification must include:
- the nature and cause of the delay;
  - the expected duration of the delay; and
  - the corrective actions the Supplier will take to mitigate or overcome the delay.
- Notification must be provided as soon as the Supplier becomes aware of the delay, and in any event no later than two (2) business days after such awareness. The Supplier must use all reasonable endeavours to avoid or minimise the impact of any delay and keep Viva Energy informed of progress toward resolution.
- 4.4 In addition to clause 3.2, the Supplier must ensure that all Goods must:
- be properly packed and labelled and accompanied by a packing list; any applicable certificates (e.g. certificate of origin, compliance certificates); import permits or licenses (if required); and any other documentation necessary to meet applicable customs, quarantine, and import clearance requirements. (Failure to provide complete and compliant documentation may result in delays, rejection of delivery, or additional costs, for which the Supplier shall be solely responsible);
  - match the description for the Goods stated in this Purchase Order;
  - be free from any security interest;

- (d) be fit for the purposes set out in, or which an experienced supplier would reasonably infer from, the relevant Purchase Order;
- (e) unless otherwise stated in the Purchase Order, be new and of merchantable quality; and
- (f) be delivered free of defects,

and Viva Energy must have the full benefit of any manufacturer's warranties that may be applicable to the Goods (and the Supplier must pursue any manufacturer's warranties on Viva Energy's behalf if Viva Energy so requests).

- 4.5 In addition to clause 3.2, the Supplier must, in performing the Services (and as relevant to the Services):
- (a) exercise such standard of care, skill and diligence as would be expected of an experienced, professional supplier of similar services and any standard specified in the Purchase Order; and
  - (b) comply with all milestone dates and timeframes agreed in writing with Viva Energy.
- 4.6 If the Supplier fails to deliver the Goods or perform the Services in accordance with the agreed milestone dates or timeframes, or if any Goods are defective or any Services are not performed to the required standard, Viva Energy shall, acting reasonably and without prejudice to any other rights and remedies be entitled to:
- (a) request that the Supplier, and at Viva Energy's request the Supplier shall, at the Supplier's own cost, promptly rectify any defects in the Goods or re-perform the Services to meet the required standards, or replace the defective Goods within a timeframe specified by Viva Energy; or
  - (b) by written notice to the Supplier with immediate effect, terminate the Purchase Order in whole or in part if the Supplier's failure constitutes a material breach incapable of remedy or where the Supplier fails to remedy the breach within a reasonable period after receiving written notice from Viva Energy specifying the breach and requiring it to be remedied.

## 5 Payment of the Price

- 5.1 Viva Energy shall pay the Supplier the agreed price for the Supplies as set out in the Purchase Order. The price is fixed and not subject to variation, and is fully inclusive of all costs, expenses, duties, levies, and taxes (including GST and any applicable import/export charges) incurred by the Supplier in performing its obligations under the Purchase Order, unless expressly stated otherwise in the Purchase Order.
- 5.2 If the Supplier is registered for GST, the price stated in the Purchase Order is deemed to be inclusive of GST unless otherwise specified. The Supplier must issue a valid tax invoice that complies with applicable GST legislation. If the price is expressed as exclusive of GST, Viva Energy will pay the applicable GST amount in addition to the price, provided a valid tax invoice is received.
- 5.3 Unless stated otherwise in the Purchase Order, the price shall be in Australian dollars (AUD) and payment shall be made in AUD.
- 5.4 Payment shall be made by Viva Energy on or before the date(s) specified in the Purchase Order, subject to the Supplier's compliance with the terms of the Purchase Order and acceptance of the Supplies by Viva Energy.
- 5.5 The Supplier may only issue an invoice after delivery of the Goods or completion of the Services, unless the Purchase Order expressly provides for milestone billing. All invoices must reference the relevant Purchase Order number and be accompanied by any required supporting documentation.
- 5.6 Payment by Viva Energy is payment on account only and is not acceptance by Viva Energy of the Goods or Services or evidence that the Goods or Services comply with the Purchase Order.
- 5.7 Unless otherwise specified in the Purchase Order or agreed in writing, the Supplier is responsible for:
- (a) all customs duties, import taxes, levies, and clearance charges incurred in connection with the delivery of the Goods;
  - (b) ensuring that all necessary documentation for customs clearance is complete, accurate, and provided in a timely manner; and
  - (c) complying with all applicable import/export laws and regulations in the country of origin and destination.

## 6 Liability and Insurance

- 6.1 To the extent permitted by law, neither party shall be liable to the other for any indirect, special, or consequential loss or damage, including loss of profit, loss of revenue, loss of opportunity, or loss of business, arising out of or in connection with the Purchase Order, whether in contract, tort (including negligence), statute, or otherwise.
- 6.2 The Supplier must, at its own cost:
- (a) maintain insurance coverage that is customary for suppliers providing similar goods or services to the Supplies, including but not limited to public liability, product liability, and workers' compensation insurance;
  - (b) maintain any insurance required by law or regulation;
  - (c) provide evidence of such insurance upon request by Viva Energy, and
  - (d) ensure that such insurance remains in effect for the duration of the Supplier's obligations under the

Purchase Order and for any applicable warranty or liability period thereafter.

### 7 Ownership and risk

- 7.1 Title to the Goods shall pass to Viva Energy upon the earlier of:
- (a) delivery of the Goods to the delivery location specified in the Purchase Order; or
  - (b) payment for the Goods.
- 7.2 Title shall pass free of any encumbrances, liens, or third-party claims.
- 7.3 Risk in the Goods remains with the Supplier until:
- (a) the Goods are delivered to Viva Energy at the specified delivery location; and
  - (b) the Goods have been accepted by Viva Energy in accordance with the delivery and acceptance provisions of the Purchase Order.
- 7.4 The Supplier is responsible for any loss or damage to the Goods prior to the transfer of risk, including during transit, loading, unloading, and storage.
- 7.5 Where the Goods are shipped internationally the Supplier must:
- (a) if requested by Viva Energy ensure the Goods are appropriately insured during transit for their full replacement value;
  - (b) comply with all applicable export, import, and customs clearance requirements;
  - (c) if requested by Viva Energy provide tracking information and advance notice of shipment;
  - (d) use secure and reputable carriers with appropriate handling procedures;
  - (e) ensure packaging is suitable to protect the Goods from damage during transit.
- 7.6 Viva Energy may specify Incoterms (e.g. DDP, FOB, CIF) in the Purchase Order, which shall govern the allocation of title, risk, and transport responsibilities. In the absence of specified Incoterms, the above provisions shall apply.

### 8 Intellectual property

- 8.1 Each party retains ownership of any intellectual property rights ('IPR') it owned or developed independently prior to the commencement of the Purchase Order ('**Pre-Existing IPR**'). Nothing in the Purchase Order transfers ownership of Pre-Existing IPR unless expressly agreed in writing.
- 8.2 Where the Supplier creates any deliverables, materials, or works specifically for Viva Energy in connection with the Supplies, all intellectual property rights in those deliverables shall vest in Viva Energy upon creation. The Supplier must do all things reasonably necessary to give effect to this clause, including executing documents to transfer ownership.
- 8.3 Each party grants the other a non-exclusive, royalty-free licence to use its Pre-Existing IPR solely to the extent necessary to perform obligations under the Purchase Order and, in the case of Viva Energy to enjoy the benefit of the Supplies. This licence does not permit sublicensing or use beyond the scope of the Purchase Order.
- 8.4 The Supplier warrants that the Goods and/or Services, including but not limited to any deliverables, supplied do not infringe any third-party IPR. The Supplier indemnifies Viva Energy against any claim, loss, or liability arising from such infringement, except to the extent caused by Viva Energy's misuse of the Goods or Services.
- 8.5 All use must comply with any confidentiality obligations and restrictions specified in the Purchase Order or otherwise agreed in writing.

### 9 Termination

- 9.1 Either party may terminate the Purchase Order, in whole or in part, by written notice to the other party if the other party:
- (a) commits a material breach of the Purchase Order and fails to remedy that breach within 14 days of receiving written notice specifying the breach and requiring its remedy;
  - (b) becomes insolvent, bankrupt, or subject to any form of external administration; or
  - (c) repeatedly fails to perform its obligations under the Purchase Order in a manner that materially affects the other party's rights or interests.

Termination under this clause does not affect any accrued rights or remedies of either party. Upon termination, the Supplier must promptly return or deliver (as applicable) any Goods, materials, or documentation paid for by Viva Energy, and Viva Energy must pay for any conforming Supplies delivered and accepted prior to termination. For the avoidance of doubt, any right of termination under this Purchase Order that arises solely due to a party becoming subject to an insolvency event (including administration, liquidation, or receivership) will not be exercised in a manner that contravenes any applicable law prohibiting the enforcement of ipso facto clauses, including under Part 2.4B of the *Corporations Act 2001 (Cth)*. This clause does not limit a party's right to terminate for other valid grounds, including material breach or failure to perform, provided such grounds exist independently of the insolvency event.

- 9.2 Viva Energy may terminate the Purchase Order, in whole or in part, at any time for its convenience by providing 14 days' written notice to the Supplier. Upon receipt of such notice, the Supplier must:
- (a) immediately cease all work in relation to the terminated portion of the Purchase Order;
  - (b) take all reasonable steps to mitigate costs and expenses;
  - (c) in relation to any Services, provide to Viva Energy (in a format readable by Viva Energy) any information created or prepared up to the date of the termination notice (including any notes required to enable such information to be understood by Viva Energy); and
  - (d) submit a termination claim limited to the value of Goods or Services properly performed or delivered and accepted by the Buyer up to the effective date of termination.

Viva Energy shall not be liable for any loss of anticipated profit, loss of opportunity, or other indirect or consequential loss arising from termination under this clause.

### 10 Assignment and subcontracting

- 10.1 Viva Energy may assign, novate, or otherwise transfer its rights or obligations under the Purchase Order to any third party, provided that the assignee can perform Viva Energy's obligations under the Purchase Order. Viva Energy will notify the Supplier of any such assignment.
- 10.2 The Supplier must not assign, novate, or subcontract any part of the Purchase Order without Viva Energy's prior written consent, which must not be unreasonably withheld or delayed. Viva Energy may require the Supplier to provide evidence that any proposed assignee or subcontractor is suitably qualified and capable of performing the relevant obligations.
- 10.3 Notwithstanding the above, either party may assign or novate the Purchase Order without consent:
- (a) As part of an internal restructure or reorganisation within its corporate group, provided the transferee is of equivalent financial standing and capable of performing the obligations under the Purchase Order; or
  - (b) Where the party is a publicly listed entity, in connection with a change in ownership or control resulting from a transaction on a recognised securities exchange.
- 10.4 The Supplier remains fully responsible for the performance of its obligations under the Purchase Order and for the acts and omissions of its subcontractors as if they were the Supplier's own.

### 11 Confidential information

- 11.1 Each party ('**Recipient**') must keep confidential and not disclose to any third party any information provided by the other party ('**Discloser**') that is marked as confidential or that a reasonable person would consider to be confidential, including but not limited to technical, commercial, financial, or operational information relating to the Supplies or the Purchase Order ('**Confidential Information**').
- 11.2 The Recipient may disclose Confidential Information:
- (a) to its employees, officers, agents, or subcontractors who need to know the information for the purposes of performing the Purchase Order, provided they are bound by confidentiality obligations no less stringent than those in this clause;
  - (b) with the prior written consent of the Discloser;
  - (c) as required by law, regulation, or a stock exchange listing rule, including any continuous disclosure obligations applicable to publicly listed entities;
  - (d) in connection with legal proceedings or to obtain professional legal or financial advice, provided the recipient of the information is bound by confidentiality obligations.
- 11.3 Confidential Information does not include information that:
- (a) is or becomes publicly available other than through a breach of this clause;
  - (b) was lawfully known to the Recipient prior to disclosure by the Discloser;
  - (c) is independently developed by the Recipient without use of or reference to the Discloser's Confidential Information;
  - (d) is lawfully obtained from a third party who is not under an obligation of confidentiality.

### 12 Information security and data protection

- 12.1 The Supplier must:
- (a) implement and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality, integrity, and availability of any data, systems, or information exchanged or accessed in connection with the Purchase Order, including protection against unauthorised access, use, disclosure, alteration, or destruction;
  - (b) comply with any Viva Energy information security policies and directions provided to the Supplier from time to time, including any policy in relation to information security testing.



- (c) promptly notify Viva Energy of any actual or suspected data breach, cyber incident, or unauthorised access involving Viva Energy's data or systems;
- (d) cooperate with Viva Energy in investigating and remediating any such incident;
- (e) ensure that any subcontractors or third parties engaged in connection with the Supplies are subject to equivalent information security obligations.

12.2 The Supplier must ensure that:

- (a) media containing software it provides under this Contract holds no viruses, worms, spyware, adware, keyloggers, trojans or analogous computer code
- (b) it uses any IT facilities Viva Energy makes available to it with due skill, care and diligence, and only for purposes authorised by Viva Energy; and
- (c) the Supplier and anyone it authorises to use those IT facilities complies with Viva Energy's IT security policies.

12.3 Where the Supplier processes or stores any data on behalf of Viva Energy, it must:

- (a) only use such data for the purpose of fulfilling its obligations under the Purchase Order;
- (b) store and process the data in jurisdictions approved by Viva Energy;
- (c) comply with all applicable privacy and data protection laws and regulations.

12.4 Viva Energy may:

- (a) monitor and record the Supplier's access to and use of Viva Energy's IT facilities, software or systems to verify compliance with this clause;
- (b) upon reasonable notice and during normal business hours, audit the Supplier's compliance with this clause, either directly or through a nominated third party,

provided such monitoring or audit is limited to verifying compliance with information security obligations under the Purchase Order.

12.5 The Supplier must give Viva Energy accurate records of access and use on request, and Viva Energy may require the prompt removal and replacement of anyone the Supplier authorised to use any IT facilities.

### 13 Waiver and severability

13.1 No failure or delay by either party in exercising any right, power, or remedy under the Purchase Order shall operate as a waiver of that right, power, or remedy. A waiver of any provision or breach must be in writing and signed by the party granting the waiver, and shall not be deemed a waiver of any other provision or subsequent breach.

13.2 If any provision of the Purchase Order is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, that provision shall be severed from the Purchase Order and the remaining provisions shall remain in full force and effect, provided that the parties' original intent can still be achieved.

### 14 Audit

14.1 Viva Energy may, at any reasonable time and upon reasonable notice, audit and take copies of the Supplier's business records relating to the Purchase Order, to verify the Supplier's compliance with the Purchase Order, or to verify invoices or claims from the Supplier or payments by Viva Energy.

14.2 The Supplier must maintain such records for at least two years after termination or completion of the Purchase Order, save for records relating to compliance with clause 15 which must be maintained for seven years.

### 15 Compliance with ESG matters

15.1 Each party must comply with all applicable laws, regulations, and standards relating to environmental, social, and governance ('**ESG**') matters, including but not limited to:

- (a) Climate-related financial disclosure obligations under the *Corporations Act 2001 (Cth)*;
- (b) The *Modern Slavery Act 2018 (Cth)* and any related anti-slavery obligations;
- (c) Workplace gender equality reporting requirements;
- (d) Any applicable international ESG standards adopted in Australia.
- (e) Privacy and data protection laws, including the *Privacy Act 1988 (Cth)* as amended, and any other applicable laws governing the collection, use, disclosure, and storage of personal information.

15.2 Each party must comply with all applicable trade control laws, including export or trade controls, economic or trade sanctions, trade embargoes, other restrictive measures and customs regulations, enforced in the jurisdictions relevant to the supply, delivery, and use of the Goods or Services or otherwise in connection to the Purchase Order ('**Applicable Trade Control Laws**'). Each party must not engage in any activity that would cause the other party to be in breach of Applicable Trade Control Laws.

15.3 The Supplier must promptly notify Viva Energy of any actual or suspected breach of ESG or Applicable Trade

Control Laws in connection with the Supplies. The Supplier must cooperate fully with Viva Energy in investigating and resolving any such matter.

15.4 Without limiting any other rights under this Purchase Order or at law, Viva Energy may immediately by written notice to the Supplier:

- (a) suspend performance of its obligations under this Purchase Order;
- (b) withhold or cease payment of any amounts due to the Supplier and cease all other dealings with the Supplier; and/or
- (c) terminate this Purchase Order and any other purchase order or agreement,

if Viva Energy forms the view, acting in good faith, that:

- (i) the Supplier is or becomes a person (which is directly or indirectly, owned, controlled by, acting for or on behalf of, or is otherwise associated with any other person:
  - a. listed on any of the lists of specifically designated nationals or designated persons or entities (or equivalent) held by the United Nations Security Council, the European Union, the United States of America, Japan, Singapore, the Commonwealth of Australia or any other government ('Sanctioning Authority') from time to time;
  - b. located in or incorporated under the laws of any country or territory which is the subject of any trade, terrorism, money laundering, bribery and/or corruption sanctions by a Sanctioning Authority; and/or
  - c. otherwise by public designation of a Sanctioning Authority, the subject of any sanctions
- (ii) continued performance under this Purchase Order would cause Viva Energy or any member of Viva Energy Group to breach any law, regulation or other legal prohibition;
- (iii) continued dealings with the Supplier may cause Viva Energy to be subject to any penalty, enforcement action or reputational risk under applicable sanctions laws or cause Viva Energy to breach any contractual obligations with third parties relating to sanctions compliance,

and Viva Energy shall not be liable to the Supplier for any loss, damage, cost or expense arising from any cessation of dealings, suspension, non-payment or termination under this clause.

15.5 The Supplier must:

- (a) promptly notify Viva Energy of any actual or suspected data breach involving Viva Energy's data, and cooperate fully in any investigation or remediation;
- (b) ensure that any subcontractors or third parties engaged in connection with the Supplies are subject to equivalent privacy obligations.

## 16 Governing law

16.1 The Laws of the State of Victoria apply to the Purchase Order, and the courts of Victoria and the Commonwealth of Australia will have exclusive jurisdiction over any matter arising out of or in connection with the Purchase Order.

## Appendix 1 – Special Conditions for Goods for Resale

The set of special conditions in this Appendix 1 apply where the Goods supplied under the Purchase Order are intended for resale by Viva Energy through convenience or retail channels and the Supplier has not entered into a separate agreement with Viva Energy.

### 1 Compliance with laws and standards

- 1.1 The Supplier warrants that all Goods:
- (a) comply with all applicable laws, regulations, and mandatory standards in the jurisdiction of sale;
  - (b) are safe for consumer use and free from defects;
  - (c) are fit for purpose for which Goods of that kind are commonly used;
  - (d) are appropriately labelled, including country of origin, nutritional information (where applicable), safety warnings, and usage instructions; and
  - (e) include all documentation required for resale, including product specifications, safety data sheets (SDS), certification (including, if applicable, any chain of custody documentation or sustainability declarations) and warranty information.
- 1.2 Without limiting the above, Supplier shall keep itself informed of Viva Energy's operational standards as published on Viva Energy's Supplier Central webpages (<https://www.vivaenergy.com.au/about-us/suppliers-and-contractors>) and shall use reasonable commercial efforts to comply with such standards. Supplier acknowledges that these standards may be updated from time to time and agrees to review them periodically to ensure ongoing compliance.

### 2 Packaging and presentation

- 2.1 Goods must be delivered in packaging suitable for retail sale, including:
- (a) Tamper-evident seals where required;
  - (b) Barcoding and product identification;
  - (c) Branding and marketing materials as specified in the Purchase Order;
  - (d) Packaging that meets environmental and sustainability requirements, where applicable.
- 2.2 Shelf life and expiry
- (a) Where applicable, Goods must possess a shelf life that is reasonably adequate to support their sale and consumption within the ordinary course of business across a convenience retail network. The shelf life shall be agreed with Viva Energy and if none agreed then sufficient to allow for standard distribution, merchandising, and consumer purchase cycles, without compromising product quality, safety, or compliance with applicable laws and standards.
  - (b) Expiry or best-before dates must be clearly marked on each unit and outer packaging.

### 3 Returns and replacements

- 3.1 Viva Energy may return Goods to the Supplier at the Supplier's cost if:
- (a) Goods are damaged, defective, expired, or otherwise not fit for resale;
  - (b) Goods are delivered in excess of the ordered quantity; and/or
  - (c) Goods are incorrectly delivered or do not match the Purchase Order specifications.
- 3.2 Returned Goods must be replaced or credited within 10 business days of notification. The Supplier shall bear all costs associated with the return and replacement process.

### 4 Warranty conditions

- 4.1 The Supplier warrants that the Goods:
- (a) Are free from defects in materials and workmanship;
  - (b) Are fit for the purpose for which they are intended and for resale;
  - (c) Will comply with any product claims or representations made by the Supplier.
- 4.2 Viva Energy may pass through warranty claims from end customers, and the Supplier must respond promptly and remedy such claims at its own cost.

### 5 Product recalls and safety notices

- 5.1 The Supplier must immediately notify Viva Energy of any actual or potential product recall, safety notice, or regulatory action affecting the Goods.
- 5.2 The Supplier must cooperate fully with Viva Energy in managing any recall, including providing replacement Goods, refunding affected purchases, and covering all associated costs.



### **6 Marketing and promotional matters**

- 6.1 The Supplier must disclose any restrictions or conditions relating to the marketing, advertising, or resale of the Goods. Viva Energy shall not be liable for any breach of third-party rights arising from resale unless such restrictions have been clearly communicated in writing prior to acceptance of the Purchase Order.
- 6.2 Viva Energy and the Supplier may, from time to time, enter into supplemental arrangements in respect of promotional activities, cooperative marketing initiatives, and other trade deals relating to the Goods supplied under this Purchase Order. Such arrangements may include, but are not limited to, advertising support, in-store promotions, volume-based discounts, incentives, rebates, and joint marketing campaigns. Any such arrangements must be agreed in writing and will form part of the overall commercial relationship between the parties but will not vary the terms of this Purchase Order unless expressly stated. The Supplier agrees to reasonably cooperate with Viva Energy in implementing agreed promotional and trade activities, including providing relevant materials, data, and support as required.

### **7 Indemnity for resale**

- 7.1 The Supplier indemnifies Viva Energy against any claims, losses, damages, or liabilities arising from the resale of the Goods, including but not limited to consumer claims, product liability, and regulatory non-compliance, except to the extent caused by Viva Energy's own negligence or misuse of the Goods.

### **8 Electronic Data Interchange (EDI) registration**

- 8.1 Where agreed with Viva Energy, Supplier shall complete and maintain registration for Electronic Data Interchange (EDI) in accordance with Viva Energy's requirements to facilitate efficient ordering and payment processes. Supplier shall ensure that its systems and processes remain compatible with Viva Energy's EDI specifications and shall promptly address any issues that may impede smooth transactions.

## Appendix 2 – Special Conditions for Software and IT Supplies

The set of special conditions in this Appendix 2 apply where the Supplies under the Purchase Order include software, IT solutions, IT systems, digital platforms, or related services.

### 1 Licence and usage rights

- 1.1 The Supplier grants Viva Energy a non-exclusive, non-transferable licence to use the software and related documentation supplied under the Purchase Order:
  - (a) for Viva Energy's internal business purposes;
  - (b) in accordance with any licence scope or user limits specified in the Purchase Order;
  - (c) for the duration of the licence term, which shall be perpetual unless otherwise stated.
- 1.2 Any restrictions on use, sublicensing, or transfer must be expressly stated in the Purchase Order.

### 2 Delivery and installation

- 2.1 The Supplier must deliver, install, and configure the software or IT systems in accordance with the agreed specifications, timeframes, and milestones. The Supplier must provide all necessary access credentials, installation instructions, and documentation.

### 3 Support and maintenance

- 3.1 Where ongoing support or maintenance is included:
  - (a) the Supplier must provide helpdesk support, updates, patches, and bug fixes for the duration specified in the Purchase Order;
  - (b) response and resolution times must meet the service levels agreed in writing; and
  - (c) Viva Energy may request renewal or extension of support services subject to commercial agreement.

### 4 Data security and privacy

- 4.1 The Supplier must comply with all applicable privacy laws (including the *Privacy Act 1988 (Cth)*) and implement appropriate security measures to protect Viva Energy's data. This includes:
  - (a) secure storage, transmission, handling and processing of data;
  - (b) only using (and disclosing) any data accessed or collected or otherwise received by the Supplier under the Purchase Order for the purposes of the Purchase Order.
  - (c) notifying Viva Energy of any privacy incident, data breach or cyber incident (*Incident*) that has, or is reasonably likely to impact any Viva Energy customer, Personnel or supplier within 48 hours of the Supplier becoming aware of the Incident; and
  - (d) ensuring subcontractors or third-party providers meet equivalent standards.
- 4.2 Upon Viva Energy's request, the Supplier must:
  - (a) complete any information security assessments;
  - (b) where applicable, allow Viva Energy to conduct regular vulnerability scans, web application scans and penetration tests of the software;
  - (c) remedy any identified security vulnerability in accordance with Viva Energy's directions; and
  - (d) not access or uses Viva Energy's IT systems or environments unless and until Viva Energy has provided its consent (such consent may be withheld in Viva Energy's absolute discretion and/or be conditional upon the Supplier entering into a separate security agreement with Viva Energy).
- 4.3 In relation to any Incident:
  - (a) the Supplier shall not delay in keeping Viva Energy informed of its investigation into the cause, impacts, containment, potential remedies and/or fixes and shall cooperate with Viva Energy in relation to any queries or investigation by any government regulator (including but not limited to [ACSC] and [OAIC]); and
  - (b) subject to law, the Supplier shall cooperate with Viva Energy in relation to any notification, reporting or announcement or publication of the Incident (including any notification to impacted individuals).

### 5 Intellectual property

- 5.1 Ownership of pre-existing intellectual property remains with the originating party. Any custom-developed software, modifications, or deliverables required to be delivered to Viva Energy shall be owned by Viva Energy unless otherwise agreed. The Supplier must not infringe third-party IP rights and must indemnify Viva Energy against any claims arising from such infringement.

### 6 Warranties

- 6.1 The Supplier warrants that the relevant software, IT system, IT solution, digital platform or related service:

- (a) will perform in accordance with any specifications and documentation in the Purchase Order;
  - (b) use of the Supplies (or any media or link whereby such Supplies are provided to Viva Energy) will not contain any computer code that is intended or known to be harmful, destructive, disabling or which assists in or enables theft, alteration, denial of service, unauthorised disclosure or destruction or corruption of data including viruses, worms, spyware, adware, keyloggers, trojans, and any new types of programmed threats that may be classified;
  - (c) the software does not infringe any third-party rights;
  - (d) for the duration of the licence term, will not be modified, updated or otherwise changed in a manner which causes a material decrease in functionality; and
  - (e) to the extent any documentation or specifications are available on the Supplier's website, not amend such documentation or specifications in a manner which would cause a material decrease in Viva Energy's rights or a breach of these warranties in respect of the relevant Supplies;
- 6.2 Any applicable warranty periods shall be no less than 12 months from delivery or go-live, whichever is later and shall refresh upon any update provided by the Supplier.

### **7 Termination and transition assistance**

- 7.1 If the Supplier materially decreases the functionality of the Supplies Viva Energy may immediately by written notice to the Supplier terminate the relevant Purchase Order or this Agreement.
- 7.2 Upon termination or expiry of the Purchase Order:
- (a) the Supplier must provide reasonable assistance to transition services or data to Viva Energy or a nominated third party; and
  - (b) any licence or access rights must continue for a reasonable period to allow for transition, unless otherwise agreed

Appendix 3 – Special Conditions for Critical Supplies

The set of special conditions in this Appendix 3 apply where the goods or services being supplied by the Supplier are essential to the continuity of Viva Energy’s operations, safety, compliance, or service delivery. These may include, but are not limited to, items required for operational uptime, regulatory obligations, emergency response, or customer service continuity. Viva Energy will notify the Supplier in writing where any Goods or Services under this Purchase Order are designated as ‘Critical Supplies’.

1 Priority supply obligation

- 1.1 The Supplier acknowledges that the Goods and/or Services are critical to Viva Energy’s operations. The Supplier shall prioritise the fulfilment of this order over non-critical orders in the event of supply constraints.
- 1.2 The Supplier must notify Viva Energy immediately in writing of any actual or potential disruption to the supply of Goods or Services, including delays, shortages, or quality issues. The Supplier must also provide a proposed mitigation plan within 48 hours of such notification.

2 Alternative supply and intervention rights

- 2.1 In the event the Supplier is unable to meet its obligations, Viva Energy reserves the right to:
  - (a) source the Goods or Services from an alternative supplier. The Supplier shall provide reasonable assistance to facilitate such alternative arrangements, including the transfer of relevant specifications, documentation, and tooling (if applicable).
  - (b) Direct the Supplier to apply additional resources, expedite performance, or take other reasonable measures to overcome any delay or disruption;
  - (c) Step in and take over part or all the supply activities, either directly or through a third party, to ensure continuity of supply.

The Supplier shall provide full cooperation and access to relevant documentation, systems, and Personnel to support such actions.

3 Reporting

- 3.1 If requested by Viva Energy, the Supplier shall:
  - (a) participate in regular performance reviews and provide reports on delivery performance, quality metrics, and any incidents affecting supply continuity; and
  - (b) provide regular updates on stock levels and lead times.