

TERMS AND CONDITIONS OF USE

1. INTRODUCTION

These Terms and Conditions are binding on all persons that access the Website (as defined herein) and by entering the Website you agree to be bound by these Terms and Conditions. The User agrees that the use of the Website is subject to these Terms and Conditions, which the User acknowledges to have read and understood.

All terms used in these Terms and Conditions, and not otherwise defined herein, shall have the meanings ascribed to those terms as set out in clause 10.

2. INTELLECTUAL PROPERTY

The User undertakes:

- 2.1. not to use any trade marks or trade names or other devices which are or incorporate marks which are the same as or confusingly similar to the Trade Marks or which marks are likely to be associated with the Trade Marks or where such use would take unfair advantage of or be detrimental to the distinctive character or the repute of the Trade Marks;
- 2.2. not at any time do or cause to be done any act or thing in any way impairing or tending to impair any part of Canway/InVivo's rights, title and interest in and to the Intellectual Property;
- 2.3. not in any way to represent that it has any rights of any nature in the Intellectual Property or any registrations thereof;
- 2.4. not to register any of the Trade Marks, or any part of them, or any trade mark which is deceptively or confusingly similar to the Trade Marks as part of its company or close corporation name or the name of any subsidiary company or corporation with which it is associated directly or indirectly and if it does so, it will procure that such company or corporation name is changed upon demand by Canway/InVivo.

3. PRIVACY POLICY

Canway/InVivo subscribes to the privacy policy set out in Section 51 of the Act, which provides as follows:

- 3.1. InVivo must have the express written permission of the User for the collection, collation, processing or disclosure of any personal information of the User, and the User, by his acceptance of these Terms and Conditions, hereby grants such permission;
- 3.2. Canway/InVivo may not electronically request, collect, collate, process or store personal information in respect of the User which is not necessary for the lawful purpose for which the personal information is required;
- 3.3. Canway/InVivo must disclose in writing to the User the specific purpose for which any personal information is being requested, collected, collated, processed or stored;
- 3.4. Canway/InVivo may not use the personal information for any other purpose than that disclosed to the User, without the express written permission of the User;
- 3.5. Canway/InVivo must, for as long as the personal information is used and for a period of at least one year thereafter, keep a record of the personal information and the specific purpose for which the personal information was collected;
- 3.6. Canway/InVivo may not disclose any of the personal information held by it to a third party, unless required or permitted by law or specifically authorised to do so in writing by the User;
- 3.7. Canway/InVivo must, for as long as the personal information is used and for a period of at least one year thereafter, keep a record of any third party to whom the personal information was disclosed and of the date on which and the purpose for which it was disclosed;
- 3.8. Canway/InVivo must delete or destroy all personal information which has become obsolete;

3.9. Canway/InVivo may use the personal information to compile profiles for statistical purposes and may freely trade with such profiles and statistical data, as long as the profiles or statistical data cannot be linked to any specific data subject by a third party.

4. ACCEPTANCE

Please review the terms of use of this site carefully

Your use of this site indicates your acceptance of these terms and your agreement to follow and be bound by them. Do not use the site if you do not agree to be bound by these terms. We may periodically change the terms, without notice, so kindly check them from time to time as your continued use of the site signifies your acceptance of any changed terms.

4.1. The User shall be deemed to have accepted these Terms and Conditions upon using the Website for any purpose whatsoever.

4.2. Pursuant to section 21 of the Act, the Parties hereby agree that the agreement of sale between the User and Canway/InVivo in terms of these Terms and Conditions is concluded in Durban, South Africa, upon Canway/InVivo accepting the Purchase Order.

5. NO LIABILITIES

5.1. Notwithstanding anything to the contrary contained in these Terms and Conditions, Canway/InVivo shall have no liability for any loss or damage of whatsoever nature, including but not limited to indirect and consequential damages and loss of profits, however arising out of or in connection with these Terms and Conditions or the Website and whether caused by latent or patent defects in the Website, the use of the Website, non suitability of the products and information contained on the Website or otherwise.

5.2. The User hereby indemnifies Canway/InVivo and holds it harmless against any and all liability, loss, damage or claim of whatsoever nature suffered by any third Party in relation to any act or omission by the User or the User's members, employees, representatives, agents or assigns or any third party in relation to the Website and the use thereof by the User, and/or arising from the provisions of these Terms and Conditions.

5.3. The User assumes all responsibility and risk for the use of the Website and Canway disclaims all liability for any loss, injury or damage resulting from the use of the Website, whether direct or indirect, and whether or not Canway/InVivo has been advised of or has knowledge of the possibility of such loss, injury or damage resulting from the use of the Website, whether direct or indirect, and whether or not Canway/InVivo has been advised or has knowledge of the possibility of such loss, injury or damage.

5.4. Canway/InVivo shall not incur any liability to the User or any other person or entity associated with the User for any compensatory, indirect, incidental, special, consequential damages whatsoever, including but not limited to, loss of revenue or profit, commercial or economic loss, even if Canway/InVivo has been advised of such damages or loss, or such damage or loss was reasonably foreseeable.

Information

While we make reasonable efforts to provide accurate and timely information about InVivo on this site, you should not assume that the information provided is always current or that this site contains all the relevant information available.

6. DISPUTE RESOLUTION

6.1. If a dispute between the Parties arises out of or is related to these Terms and Conditions, the matter shall be determined in accordance with the following provisions, including any matter relating to the breach of any of the provisions of these Terms and Conditions.

6.2. Save in respect of those provisions of these Terms and Conditions which provide for their own remedies which would be incompatible with arbitration, or in the event of either Party instituting urgent action against the other in any court of competent jurisdiction, any dispute arising from or in connection with these Terms and Conditions will be finally resolved in accordance with the Rules of the Arbitration Foundation of Southern Africa by an arbitrator or arbitrators appointed by the Foundation.

6.3. This clause will be severable from the rest of these Terms and Conditions so that it will operate and continue to operate notwithstanding any actual or alleged voidness, voidability, unenforceability, termination, cancellation, expiry, or accepted repudiation, of these Terms and Conditions.

6.4. Neither Party shall be entitled to withhold performance of any of their obligations in terms of these Terms and Conditions pending the settlement of, or decision in, any dispute arising between the Parties and each Party shall in such circumstances continue to comply with their obligations in terms of these Terms and Conditions.

7. GOVERNING LAW

The entire provisions of these Terms and Conditions shall be governed by and construed in accordance with the laws of the Republic of South Africa. Furthermore, the Parties hereto hereby irrevocably and unconditionally consent to the non-exclusive jurisdiction of the Natal Provincial Division of the High Court of South Africa in regard to all matters arising from these Terms and Conditions.

8. GENERAL

8.1. This document contains the entire agreement between the Parties in regard to the subject matter hereof.

8.2. No Party shall be bound by or have any claim or right of action arising from any express or implied term, undertaking, representation, warranty, promise or the like not included or recorded in this document whether it induced the contract and/or whether it was negligent or not.

8.3. No variation, amendment or consensual cancellation of this Agreement or any provision or term hereof or of any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Agreement and no settlement of any disputes arising under this Agreement and no extension of time, waiver or relaxation or suspension of any of the provisions or terms of this Agreement or of any agreement, bill of exchange or other document issued pursuant to or in terms of this Agreement shall be binding or have any force and effect unless reduced to writing and signed by or on behalf of the Parties. Any such extension, waiver or relaxation or suspension which is so given or made shall be strictly construed as relating to strictly to the matter in respect whereof it was made or given.

8.4. No extension of time or waiver or relaxation of any of the provisions or terms of this Agreement or any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Agreement, shall operate as an estoppel against a Party in respect of its rights under this Agreement.

8.5. It is agreed between the Parties, that notwithstanding the provisions of Section 1 of the Electronic Communications and Transactions Act, 2002, any amendment to this Agreement shall only be effective if it is reduced to writing on paper and signed by all the Parties.

8.6. No failure by any Party to enforce any provision of this Agreement shall constitute a waiver of such provision or affect in any way such Party's right to require the performance of such provision at any time in the future, nor shall a waiver of a subsequent breach nullify the effectiveness of the provision itself.

8.7. Nothing in this Agreement, express or implied, is intended to confer upon any person not a party to this Agreement any rights or remedies under or by reason of this Agreement. Neither Canway/InVivo nor the Purchaser to this Agreement may cede or delegate all or any portion of its rights, obligations or liabilities under this Agreement without the prior consent of the other.

8.8. If any clause or term of this Agreement should be invalid, unenforceable, defective or illegal for any reason whatsoever, then the remaining terms and provisions of this Agreement shall be deemed to be severable there from and shall continue in full force and effect unless such invalidity, unenforceability, defect or illegality goes to the root of this Agreement.

8.9. The Parties undertake at all times to do all such things, to perform all such acts and to take all such steps and to procure the doing of all such things, the performance of all such actions and the taking of all such steps as may be open to them and necessary for or incidental to the putting into effect or maintenance of the terms, conditions and import of this Agreement.

Product Sales and Availability

All products displayed on this site are subject to availability and available only at selected CLICKS stores. Not all the products featured on this site are available in all Clicks stores. All prices displayed on the site are quoted in South African Rands and are valid and effective only in the Republic of South Africa. Canway/InVivo reserves the right without prior notice to discontinue or change specifications on products and services offered on this site without incurring any obligations.

Although Canway/InVivo makes every effort to ensure pricing is accurate, we cannot be held to the pricing on the site as prices are subject to change and may change without prior notice.

Colours

We have made every effort to display as accurately as possible the colours of the products that appear on the site. However, as the actual colours you see will depend on your monitor, we cannot guarantee that your monitor's display of any colour will be accurate

Your Comment

We value the comments, ideas, suggestions and feedback disclosed, submitted or offered by you on, by or in connection with your use of the site, but Canway/InVivo shall not be obliged to respond to, maintain or compensate you in any way whatsoever for your Comments. Once disclosed, submitted or offered, your Comments shall become the property of Canway/InVivo. Canway/InVivo will thus exclusively own all such rights, title and interests in the Comments and shall not be limited in any way in its use, commercial or otherwise, of any of the Comments.

You warrant that the Comments disclosed, submitted or offered by you to the site do not and will not violate any right of any third party, including copyright, trademark, privacy or any other personal or proprietary right. You agree not to disclose, submit or offer any Comments that will be or will contain any defamatory, unlawful, abusive or obscene material. Canway/InVivo disclaims any liability towards any third party regarding your Comments and you shall remain accountable towards any third party regarding the contents of your Comments.

Disclaimers and Exclusions of Liability

Canway/InVivo does not warrant that the functions provided by the site will be uninterrupted or error free, or that the site or the server that makes it available are free from viruses or other harmful components.

General Terms

The content contained on the site may be used by you for your own personal and information purposes only. In using the site you agree not to infect it with any computer programming (such as a virus) that may damage, interfere with, delay or intercept any data or information on the site and you shall indemnify Canway/InVivo for any damage caused by any such act attributable to you.

Linking and framing

Any third party site may link to this website provided that such a link is directed at the homepage of this website. It is expressly prohibited for any person, business, entity or website to link to any page other than the home page of this website, without the prior written approval of Canway/InVivo.

It is expressly prohibited for any person, business, entity, or website to frame any page on this website, including the home page, in any way whatsoever, without the prior written approval of Canway/InVivo.

Links to third party sites

Canway/InVivo may provide links to the user only as a convenience and the inclusion of any link does not imply Canway/InVivo's endorsement of such sites.

Linked websites or pages are not subject to the control of Canway/InVivo. Canway/InVivo shall not be held responsible or liable, directly or indirectly, in any way for the contents, use, or inability to use or access any linked websites or any links contained in a linked website

Security of information

It is expressly prohibited for any person, business, or entity to gain or attempt to gain unauthorised access to any page on this website, or to deliver or attempt to deliver any unauthorised, damaging or malicious code to this website. Any person who delivers or attempts to deliver any unauthorised, damaging or malicious code to this website or attempts to gain unauthorised access to any page on this website shall be held criminally liable, and in the event that Canway/InVivo should suffer any damage or loss, civil damages will be claimed.

9. DISCLOSURE

9.1. The following information is disclosed by Canway/InVivo to the User in terms of Section 43 of the Act:

9.1.1. full name and legal status of Canway (Proprietary) Limited (Registration No. 1995/01650/07), a private company with limited liability incorporated in accordance with the laws of South Africa;

9.1.2. physical address: 6 Holwood Park, La Lucia Ridge, 4320, KwaZulu Natal, South Africa;

9.1.3. postal address: PO Box 1590, Umhlanga Rocks 4320, South Africa;

- 9.1.4. telephone number: +27 31 5665424;
- 9.1.5. website address: www.invivoinstitute.net
- 9.1.6. e-mail address: info@invivoexpertise.co.za
- 9.1.7. membership of self-regulatory or accreditation bodies: none;
- 9.1.8. codes of conduct to which Canway/InVivo subscribes: none;
- 9.1.9. physical address where Canway/InVivo will receive legal service of documents: 6 Holwood Park, La Lucia Ridge, 4320, KwaZulu Natal, South Africa;
- 9.1.10. main description of Website: personal care;
- 9.1.11. alternative dispute resolution code subscribed to: we do not subscribe to any alternative resolution code, however, refer to clause 6 for our dispute resolution provisions;
- 9.1.12. privacy policy in respect of personal information: See clause 3.

DISCLAIMER

Canway/InVivo makes no representations or warranties, implied or otherwise, that, amongst others, the content and technology available from this website are free from errors or omissions or that the service will be 100% uninterrupted and error free.

This website is supplied on an "as is" basis and has not been compiled or supplied to meet the user's individual requirements. It is the sole responsibility of the user to satisfy itself prior to entering into this agreement with Canway/InVivo that the service available from and through this website will meet the user's individual requirements and be compatible with the user's hardware and/or software.

Information, ideas and opinions expressed on this site should not be regarded as advice of Canway/InVivo.

10. DEFINITIONS

10.1. Unless the context dictates otherwise, the words and expressions set forth below shall bear the following meanings and cognate expressions shall bear corresponding meanings:

10.1.1. **"Act"** shall mean the Electronic Communications and Transactions Act, 2002;

10.1.2. **"Business Day"** shall mean any day other than a Saturday, Sunday or a public holiday in South Africa;

10.1.3. **"Copyright"** shall have the meaning assigned to that term under the provisions of the Copyright Act, 1978;

10.1.4. **"Intellectual Property"** shall include, without limitation, all patents, Copyright, Trade Marks and goodwill attaching to Canway/InVivo

10.1.5. **"Canway"** shall mean Canway (Proprietary) Limited (Registration No. 1995/01650/07), a company with limited liability incorporated in accordance with the laws of South Africa;

10.1.6. **"Parties"** shall mean Canway/InVivo and the User and **"Party"** shall, as the context requires be a reference to any one of them;

10.1.7. **"Terms and Conditions"** shall mean these terms and conditions;

10.1.8. **"Trade Marks"** shall mean all registered and unregistered trade marks, trade names, symbols, signs, insignia, emblems, logos and slogans utilised or adopted by Canway/InVivo in the conduct of its business;

10.1.9. **"User"** shall mean the user of the Website in terms of these Terms and Conditions;

10.1.10. **“Website”** shall mean the website www.invivoinstitute.net and includes any part or element thereof.

10.2. Unless inconsistent with the context or save where the contrary is expressly indicated:

10.2.1. if any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it appears only in this clause 10, effect shall be given to it as if it were a substantive provision of these Terms and Conditions;

10.2.2. when any number of days is prescribed in these Terms and Conditions, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a Business Day, in which case the last day shall be the next succeeding Business Day;

10.2.3. in the event that the day for payment of any amount due in terms of these Terms and Conditions should fall on a day which is not a Business Day, the relevant day for payment shall be the subsequent Business Day;

10.2.4. in the event that the day for performance of any obligation to be performed in terms of these Terms and Conditions should fall on a day which is not a Business Day, the relevant day for performance shall be the subsequent Business Day;

10.2.5. any reference in these Terms and Conditions to an enactment is to that enactment as at the Effective Date and as amended or re-enacted from time to time;

10.2.6. any reference in these Terms and Conditions to these Terms and Conditions or any other Terms and Conditions or document shall be construed as a reference to these Terms and Conditions or, as the case may be, such other Terms and Conditions or document as same may have been, or may from time to time be, amended, varied novated or supplemented;

10.2.7. no provision of these Terms and Conditions constitutes a stipulation for the benefit of any person who is not a Party to these Terms and Conditions;

10.2.8. references to day/s, month/s or year/s shall be construed as Gregorian calendar day/s, month/s or year/s.

10.2.9. Unless inconsistent with the context, an expression which denotes:

10.2.9.1. any one gender includes the other genders;

10.2.9.2. the singular includes the plural and vice versa.

10.2.10. Where any term is defined within the context of any particular clause in these Terms and Conditions, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the same meaning as ascribed to it for all purposes in terms of these Terms and Conditions, notwithstanding that that term has not been defined in this clause 10.

10.2.11. The expiration or termination of these Terms and Conditions shall not affect such of the provisions of these Terms and Conditions as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

10.2.12. These Terms and Conditions shall be binding on and enforceable by the estates, heirs, executors, administrators, trustees, permitted assigns or liquidators of the Parties as fully and effectually as if they had signed these Terms and Conditions in the first instance and reference to any Party shall be deemed to include such Party's estate, heirs, executors, administrators, trustees, permitted assigns or liquidators, as the case may be.

10.2.13. Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.