

2017 Declaration of Compliance to our California Comprehensive Compliance Program

VIVUS is committed to conducting its business ethically and in compliance with all applicable laws. To the best of our knowledge and based on a good faith understanding of the statutory requirements, VIVUS has established a Compliance Program that meets the requirements set forth in California Health & Safety Code, Sections 119400-119402 (“California Compliance Law”).

The California Compliance Law requires pharmaceutical companies to adopt a compliance program in accordance with the April 2003 publication “Compliance Program Guidance for Pharmaceutical Manufacturers” (“OIG Compliance Guidance”) developed by the United States Department of Health and Human Services Office of Inspector General (“OIG”) and policies for compliance with the January 2009 Pharmaceutical Research and Manufacturers of America (“PhRMA”) “Code on Interactions with Health Care Professionals” (“PhRMA Code”).

VIVUS has established a Compliance Program in accordance with the OIG Compliance Guidance and the PhRMA Code.

For purposes of compliance with the requirements of Section 119402 of the California Health and Safety Code, VIVUS has established an annual dollar limit on gifts, promotional materials or items or activities that VIVUS may provide to individual medical or health professionals in California. That annual aggregate dollar limit is \$2,000.00 per medical or health professional. This limit represents a spending cap, not a goal or average. In many cases, the amount spent per physician may be substantially less than the cap amount. This annual dollar limit excludes items and activities that are exempt as provided by California Health and Safety Code Section 119402. These exemptions include drug samples given to physicians and health care professionals, financial support for continuing medical education forums, financial support for health educational scholarships and payments for legitimate professional services, and any meals or expenses associated with the provision of such services.

In conjunction with this certification, from time to time, through audits, our disclosure program, or otherwise, VIVUS may identify potential or actual violations of provisions of our compliance program, including the California Comprehensive Compliance Program and the annual limit on gifts to individual medical or health care professionals. In those instances, VIVUS will promptly investigate and respond appropriately to any violations consistent with our policies addressing noncompliance or misconduct, as described in the California Comprehensive Compliance Program.

Compliance Program Summary

Written Code of Conduct: The VIVUS Code of Conduct is a written commitment to ethical and compliance principles, policies and procedures that apply to all VIVUS management, employees and contractors. The VIVUS Code of Conduct is distributed to all employees and contractors upon commencement of their working relationship and whenever changes are made to the Code. An employee's obligations under our Code of Conduct include observance of all laws and regulations applicable to VIVUS as well as general ethical standards and applicable VIVUS policies and procedures.

Compliance Officer: Our compliance officer is responsible for developing, operating, and monitoring the compliance program. This individual is a Senior Vice President who reports regularly to Executive

Management and a Committee of our Board of Directors on matters relating to compliance. Our compliance officer also helps ensure that the compliance program is reasonably designed, implemented, and enforced so that the program is effective in preventing and detecting unlawful conduct and promotes a corporate culture that encourages ethical conduct and a commitment to compliance with the law.

Education and Training Program: VIVUS is committed to the implementation of effective compliance training programs for our employees. Our sales and marketing employees, as well as other employees who regularly interact with health care professionals, are trained on the requirements of OIG Guidance and the PhRMA Code as well as other federal, state and local regulations. Employee training and education programs increase awareness of the legal and ethical implications of abiding by our Code of Conduct and related policies, and making sound and ethical business decisions.

Communications and Complaint Reporting: VIVUS is committed to fostering effective lines of communication between management and employees. We have adopted confidentiality and non-retribution/non-retaliation policies. VIVUS expects its employees, officers and directors to promptly report actual or suspected violations of our commercial operating practices. Compliance questions or reports of potential violations should be reported to the appropriate member of management but may also be directed to a compliance officer or our anonymous tip-line.

Auditing and Monitoring: VIVUS' compliance program includes monitoring and auditing to assess compliance with applicable directives and guidelines. These audits are intended to identify potential or existing problem areas and to take corrective measures in an effort to prevent the recurrence of non-compliance. In accordance with the OIG Guidance, the nature, extent and frequency of compliance monitoring and auditing varies according to a number of factors, including new regulatory requirements, changes in business practices, and other considerations. Our Compliance Officer, or a designee, oversees the review of non-compliance reports and determine whether further investigation is necessary.

Response to Noncompliance or Misconduct: VIVUS responds promptly and impartially to questions, concerns, and reports of wrongdoing. We have implemented processes for the prompt and proper investigation of potential violations of our compliance program and development of an appropriate response to violations that is consistent with the level and frequency of the violation. Our Code of Conduct specifically prohibits retaliation against an individual arising from a good-faith report of a Code of Conduct, company policy, or integrity concern, and our investigations are handled as confidentially as possible.