

## FHI 360 – PURCHASE ORDER GENERAL TERMS AND CONDITIONS

**1. Offer & Agreement.** The following terms together with those on the face of this Agreement, other documents as may be incorporated by reference or attached hereto, and additional terms in any Change Order issued to this purchase order, constitute the offer of Family Health International ("FHI 360") to the Vendor and shall, when accepted, constitute the entire agreement ("Agreement") between FHI 360 and Vendor. This Agreement shall be deemed to have been accepted upon Vendor's signed acceptance on the cover of this order or commencement of performance. Any reference herein to any proposal, quotation, or other communication by Vendor shall, unless indicated to the contrary herein, be deemed to be limited to the description of the services and to be limited by the terms set forth or incorporated by reference herein. This Agreement supersedes and replaces all prior written or oral agreements, negotiations, and understandings regarding such subject matter. These terms prevail over any of Vendor's terms and conditions regardless of whether or when Vendor has submitted such terms to FHI 360. This Agreement expressly limits Vendor's acceptance to the terms of this Agreement.

**2. Independent Contractor.** The relationship between Vendor and FHI 360 is that of independent contractor. Nothing in this Agreement will be construed as creating any agency, partnership, joint venture, employment, or other relationship between the parties. Neither party shall have the authority to contract for or bind the other. Vendor shall comply with all laws and assume all risks incident to Vendor's status as an independent contractor. This includes, but is not limited to, responsibility for all applicable income taxes, associated payroll and business taxes, licenses and fees, and such insurance as is necessary for Vendor's protection in connection with work performed under this Agreement.

**3. Goods and Services.** Vendor shall supply the goods and/or services described on the order in the quantities, at the prices, and on the delivery or performance dates specified in the Order and in accordance with the terms of this Agreement. The quantity and quality of goods and services shall conform in all respects to the requirements of the order. Vendor shall perform all services using personnel with the required skill, experience, and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement.

**4. Price and Terms of Payment.** The prices or rates specified in the Order are firm, fixed, and all-inclusive covering performance of all of Vendor's obligations pursuant to this Agreement, including but not limited to, delivery of Goods and successful performance of all Services; warranty-related costs and charges; packing; shipping, and any and all other costs and charges of whatever description or amount in connect with, necessary for, or resulting from Vendor's required performance under this Agreement. Requests for payment for materials costs under Time and Materials agreements must be supported by receipts for all items invoiced. Subject to any superseding terms on the face hereof, Vendor shall invoice FHI 360 at [apinvoices@fhi360.org](mailto:apinvoices@fhi360.org) (FHI 360 Accounts Payable Department) and be paid upon completion/acceptance of the required supplies/services. Vendor shall be paid not later than thirty (30) days after FHI 360's receipt of an acceptable invoice or FHI 360's receipt of the completed products/services, together with any required documents. Drafts will not be honored.

**5. Timely Performance; Notice of Delay; Excusable Delays.** Time is of the essence with respect to the goods and services and Vendor's obligations under this Agreement. If Vendor fails to deliver or perform within the specified time, Vendor shall be in default and shall be liable to FHI 360 for all damages and expenses FHI 360 incurs as a result of late delivery or performance. Vendor shall promptly notify FHI 360 in writing of any factors, conditions, or events that may delay or impede its ability to timely and successfully perform its obligations under this Agreement. Neither party shall be in default because of any delay or failure to perform under the terms of this Agreement if the failure arises from an occurrence or circumstance beyond the affected party's reasonable control and without the fault or negligence of the affected party, such as, without limitation, acts of God or the public enemy, floods, fires, earthquakes, epidemics, strikes, embargoes, or unusually severe weather. If such an occurrence arises, the affected party shall notify the other party in writing of the occurrence or circumstances causing such delay or failure and provide an estimate of the impact on performance. The affected party shall use all diligent efforts to end the delay or nonperformance, or minimize its effects, and resume timely performance under this Agreement.

**6. Inspection/Acceptance.** (a) Vendor shall work within professional standards and limitations specified on work statements, drawings and specifications covering the work and shall make such inspections as are deemed necessary to ensure Vendor compliance, unless deviation there from is authorized in writing by FHI 360. (b) All shipments of goods shall be subject to final inspection by FHI 360 after receipt by FHI 360 at destination. If goods supplied or services performed by Vendor is found to be defective, Vendor shall be given the opportunity to correct any deficiencies within a reasonable period of time. If correction of such work is impracticable, Vendor shall bear all risk after notice of rejection and shall, if so requested by FHI 360 and at Vendor's own expense including transit and associated costs, promptly make all necessary replacements. (c) Vendor shall provide immediate notice to FHI 360 of any potential failure on the part of its suppliers to provide supplies/services required hereunder. Vendor is responsible for any deficiency on the part of its suppliers. (d) VENDOR SHALL BE RESPONSIBLE FOR ANY COSTS OF REPROCUREMENT AS MAY BE NECESSARY FOR FHI 360 TO SECURE THE SUPPLIES/SERVICES AS A RESULT OF VENDOR'S INABILITY TO PERFORM THAT EXCEED THE AGREED UPON PRICE HEREIN. (e) In the event of failure of the Vendor to deliver/complete any part of this order, then FHI 360 shall, at its sole discretion, have the right to accept any delivered/completed part and unilaterally reduce the agreed upon price accordingly. (f) FHI 360 acceptance of partial deliveries shall not constitute a waiver of any of the Vendor's remaining obligations hereunder. (g) Final inspection and acceptance by FHI 360 shall be conclusive except for latent defects, fraud, or for any rights provided by any product warranty.

**7. Title and Risk of Loss.** Title to and risk of loss of, each good or service to be delivered hereunder shall pass from Vendor to FHI 360 upon acceptance of such product/service by FHI 360 as set forth in Section 0 regardless of when or where FHI 360 takes physical possession.

**8. General Warranty.** Vendor warrants all goods and services to be free from all materials defects and expressly represents that all such required goods and services are merchantable and fit for use for the particular purpose described in the order capable of performing the function or service for which they were intended. Vendor agrees to pass on all manufacturer's warranties to FHI 360.

**9. Liens.** Vendor agrees to deliver the products/services which are the subject-matter of this order to FHI 360 free and clear of all liens, claims, and encumbrances.

**10. Confidentiality.** Vendor shall treat non-public, confidential, or proprietary information disclosed by FHI 360 in connection with this Agreement, including, but not limited to, documentation, drawings, specifications, and software, to be confidential, whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, and whether marked as confidential. Vendor shall not disclose any such information to any other person or use such information itself for any purpose other than that for which it was intended in completing this order, with FHI 360's written permission. Vendor shall take all reasonable steps to protect FHI 360's confidential information from unauthorized use or disclosure. Vendor agrees to execute FHI 360's standard Non-Disclosure Agreement upon request.

**11. Work Product/Intellectual Property.** All deliverables, and all other writings, data, databases, information, designs, know-how, software (object and source code), inventions, and other material in any media, form, or format developed or prepared in the course of, or resulting in any way from, Vendor's performance under this Agreement, (collectively, "Work Product"), and all intellectual property rights associated with such Work Product, shall be the sole and exclusive property of FHI 360. Work Product shall be deemed "work made for hire" but to the extent the Work Product does not qualify as work made for hire, or title to the Work Product does not vest in FHI 360 by operation of law, Vendor hereby irrevocably and unconditionally assigns all right, title, and interest in the Work product to FHI 360. Vendor agrees to take all actions and execute all documents necessary to establish or confirm FHI 360's ownership of the Work Product or to obtain or maintain patent, trademark, copyright or other legal protection relating to the Work product and associated intellectual property rights.

**12. Stop Work.** (a) FHI 360 shall have the right to direct Vendor to stop work at any time. Such direction must be in writing and shall be effective for a period of not more than 30 days after which time Vendor may not continue work absent direction to do so or a notice of termination.

**13. Termination.** (a) This order may be terminated by FHI 360 for convenience upon advance written notice to the Vendor, whether or not Vendor is in default of any obligations under this Agreement. Vendor shall be paid for goods delivered and services completed and shall be reimbursed all actual costs for work in process incurred, on or before the effective date of termination specified in the notice, inclusive of any associated administrative costs, restocking charges, vendor cancellation charges and settlement costs. Under no circumstances shall Vendor receive more than the original value of this Order. (b) If either party defaults on any obligation under this Agreement and fails to correct it within ten (10) days of notification of default, the non-defaulting party may immediately terminate this order upon written notice. In the event of termination for default by FHI 360, FHI 360 shall have no obligation to pay Vendor for any goods or services that have not been accepted by FHI 360 pursuant to Section 0 above as of the effective date of termination. The election to terminate for cause shall not be construed as an election of remedies and the non-defaulting party shall be entitled to all available remedies available at law or in equity. (c) If Vendor is declared insolvent or bankrupt, makes an assignment for the benefit of creditors, files or has filed against it a petition in bankruptcy, or has a trustee or receiver appointed for it or any of its assets, FHI 360 shall be entitled to terminate this order without further liability for any goods or services not accepted by FHI 360 pursuant to Section 0 above as of the effective date of termination.

**14. Liquidated Damages.** Vendor acknowledges and agrees that time is of the essence with respect to the goods and/or services, and that it is difficult to ascertain at the time of entering into an agreement the precise nature and amount of actual damages that FHI 360 will incur in the event of any failure or delay in Vendor's performance. If the Vendor fails to deliver the goods or perform the services within the time specified in this agreement, FHI 360 may require that Vendor pay, in place of actual damages, liquidated damages in the amount of one percent (1%) of the agreement value for each calendar day of delay which may be deducted from payments due to the vendor. If FHI 360 terminates this agreement in whole or in part for default, as provided under Section 0 above, Vendor is liable for liquidated damages accruing until such time that FHI 360 reasonably obtains delivery or performance from another vendor. These liquidated damages shall be in addition to any excess costs for re-purchase. Vendor will not be charged with liquidated damages when delay of delivery or performance is beyond the control and without the fault or negligence of the Vendor.

**15. Insurance.** Vendor shall, at its sole cost and expense, obtain and maintain the following minimum insurance coverage and coverage limits. (1) workers compensation insurance (or its local equivalent) as required by the laws of the applicable jurisdiction, as well as employers' liability coverage with minimum limits of \$1,000,000 (or an equivalent value in local currency), covering all of Vendor's employees who are engaged in any work under the Agreement; and any of the work is subcontracted, Vendor shall require the subcontractor to provide the same coverage for any of its employees engaged in any work under the Agreement; (2) commercial general liability coverage on a comprehensive broad form on an occurrence basis in the minimum amount of \$1,000,000 (or the equivalent value in the local currency) combined single limit (where the defense is in excess of the limit of liability); and (3) automobile liability covering all owned, hired, and non-owned vehicles used in connection with this Agreement, with a minimum combined single limit of \$1,000,000 (or an equivalent value in local currency) bodily injury and property damage. Such insurance shall be obtained from financially sound and reputable companies that are authorized to provide such coverage in the applicable jurisdiction. At FHI 360's request, Vendor shall provide certificates of insurance evidencing the coverage required in this section.

**16. Liability.** Vendor shall indemnify, defend, and hold harmless FHI 360 and its officers, directors, employees, agents, affiliates, successors, and assigns (collectively, "Indemnified Parties") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of any kind, including reasonable attorneys' fees and the cost of enforcing any right to indemnification hereunder (collectively, "Losses") arising out of, resulting from, or related in any way to the goods and/or services or performance under this Agreement By Vendor, Vendor's employees, or Vendor's suppliers, sub-vendors or subcontractors. In no event shall FHI 360 be liable to Vendor for special, incidental, consequential, or punitive damages.

**17. Assignment.** Vendor may not assign this order or any benefits arising from this order without the prior written consent of FHI 360, and, unless otherwise agreed in writing, the rights of any assignee shall be subject to all setoffs, counterclaim, and other comparable rights arising hereunder.

**18. Recordkeeping.** The Vendor will maintain books, records, documents, program and individual service records and other evidence of its accounting and billing procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature incurred in the performance of this Agreement. These records will be subject at all reasonable times to monitoring, inspection, review or audit by authorized employees or agents of FHI 360 or its funding sponsor. The Vendor will retain all such records concerning this Agreement for a period of three (3) years after the expiration of such Agreement unless a longer period is specified in the specific terms and conditions of the Agreement. If any litigation, claim or audit is started before the expiration date of this three-year period, the records will be retained until all litigation, claims or audit findings involving the records have been resolved.

**19.Changes and Modifications.** Any proposed change to this Agreement must be authorized by a written modification to this Agreement before performance of the change may begin. Any effort undertaken by the Vendor pursuant to oral instructions or technical directions issued other than in accordance with the provisions of this Agreement will be at the Vendor's risk of performing activities outside the scope of work of this Agreement and may not be eligible for payment of the costs incurred.

**20.Notices.** All notices concerning business or administrative matters under this Agreement will be in writing and will be directed to the FHI 360 Designated Representative named in the Agreement or Purchase Order.

**21.No Waiver.** The invalidity in whole or in part of any provision of this Agreement will not affect the validity of other provisions. A waiver of a breach of any provision of this Agreement will not constitute a waiver of any subsequent breach of that provision or a breach of any other provision of this Agreement. The failure of FHI 360 to enforce at any time or from time to time any provision of this Agreement will not be construed as a waiver of the provision.

**22.Compliance with Law.** Vendor agrees during performance under this Agreement to comply with any and all applicable executive orders, Federal, State, municipal, and local laws and ordinances, and rules, orders, requirements and regulations relating to equal employment opportunity, including, but not limited to, the Fair Labor Standards Act of 1938 as amended, Executive Order ("E.O.") 11246, "Equal Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," relating to the affirmative action clause for disabled veterans, recently separated veterans, other protected veterans of the armed forces service medal veterans (41 CFR 60-300) are hereby incorporated herein for reference, as supplemented by regulations at 41 CFR Chapter 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor", the Copeland "Anti-Kickback" Act (18USC874 and 40USC276c and 18USC874 as supplemented by Department of Labor regulations at 29CFRpart 3, the Davis-Bacon Act, as amended (40USC276a-a7) and as supplemented by Department of Labor at 29CFR part 5, the Contract Work Hours and Safety Standards Act (40USC327-333), and the Byrd Anti-Lobbying Amendment (31USC1352) and by reference; of Equal Opportunity Clause of 41 CFR 60-250.4 relating to disabled and Vietnam era veterans; and the provision of 41 CFR 60-741.4 relating to handicapped workers. **In addition, the Vendor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60- 741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime Vendors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.** Otherwise agreed, governing law shall be that of the North Carolina. Vendors are hereby notified of your obligation to annually file a Standard Form 100. Equal Employment Opportunity Employer Information Report EEO-1 (EEO-1 Report) with the Joint Reporting Committee. The *mailing address* and other contact information for this Committee are as follows. EEO-1 Joint Reporting Committee, P.O. Box 19100, Washington, DC 20036- 9100; *Telephone* 1-800-286-640; *Facsimile* 202-663-7185; *TTY* 202-663-7184; *Email*. el.techassistance.eeoc.gov

**23.Debarment, Suspension, Ineligibility, and Voluntary Exclusion.** Vendor certifies by acceptance of this agreement that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any U.S. Federal Government department or agency and the host government.

**24.Drug Trafficking.** FHI 360 reserve the right to terminate this purchase order/Agreement to demand a refund or take other appropriate measures if the vendor is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking activities.

**25.Terrorism E.O. 13224.** Vendor agrees and certifies to take all necessary actions to comply with Executive Order No. 13224 on Terrorist Financing; blocking and prohibiting transactions with persons who commit, threaten to commit, or support terrorism. Vendor is required to obtain the updated lists at the time of procurement of goods or services. The updated lists are available at <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx> and <https://www.un.org/sc/suborg/en/sanctions/un-sc-consolidated-list>

**26.Computer Software Licenses.** Vendor agrees to specifically identify to FHI 360 any and all computer software licenses ("including shrink- wrap") conveyed to FHI 360. The Vendor agrees that any and all computer software developed in the performance of this order using FHI 360 monies shall, unless otherwise agreed, become and remain the property of FHI 360.

**27.Gratuities.** This agreement shall be terminated for cause in accordance with section 13 above should it be determined by FHI 360 that Vendor offered or gave a gratuity (e.g., entertainment, gift, services or money) to any FHI 360 employee or other persons responsible for or connected to those responsible for the decision to award this agreement or the acceptance of performance under this agreement and that gratuity was intended to obtain this award or favorable treatment during performance of the award.

**28.Payment for Reimbursable Expenses.** Requests for payment for materials costs under Time and Materials agreements must be supported by receipts for all items invoiced.

**29.Independent Price Determination.** Vendor certifies that: (a) The prices in this order have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror, including but not limited to subsidiaries or other entities in which Vendor has any ownership or other interests, or any competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered; (b) The prices in this order were not knowingly disclosed by the Vendor, directly or indirectly, to any other offeror, including but not limited to subsidiaries or other entities in which Vendor has any ownership or other interests, or any competitor before bid opening (in the case of a sealed bid solicitation) or award (in the case of a negotiated or competitive solicitation) unless otherwise required by law; and (c) No attempt was made by the Vendor to induce any other concern or individual to submit or not to submit an offer for the purpose of restricting competition or influencing the competitive environment. Vendor understands and agrees that violation of this certification will result in the termination of this order for default as well as exclusion from future solicitations

**30.Eligibility Rules for Goods and Services for USAID funded purchases.** Vendor shall not procure. (a) Military equipment; (b) Surveillance equipment; (c) Commodities and services for support of police or other law enforcement activities;(d) Abortion equipment and services;(e) Luxury goods and gambling equipment, or (f) Weather modification equipment. Vendors shall not procure any goods or services from firms or individuals whose name appears on the "Lists of Parties Excluded from Federal Procurement and Non-procurement Programs." Prior to procuring any of the following goods and services, Vendor must obtain prior written approval from the FHI 360 Procurement Officer. (i) Agricultural commodities; (ii) Motor Vehicles; (iii) Pharmaceuticals; (iv) Pesticides; (v) Used Equipment; (vi) U.S. Government-owned excess property, or (vii) Fertilizer. All procurements must be conducted in accordance with 22CFR228, Rules on



Procurement on Commodities and Services Financed by the Agency for International Development, which is incorporated into this Award in its entirety.

**31. Ocean Shipment of Goods.** Vendor must ensure transport on a US flag commercial vessel. When U.S. flag vessels are not available, or their use would result in a significant delay, the vendor must contact FHI 360 Procurement Officer before proceeding.

**32. Air Transportation.** In accordance with the standard provision entitled International Air Transportation, any international travel requires prior written approval from the FHI 360 Designated Representative.

**33. Authorized Geographic Code.** Vendor shall comply with the Geographic Code specified by the US Government Prime Contract with FHI 360.

**34. Organizational Conflict of Interest.** (a) The Vendor represents that, to the best of its knowledge and belief, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, or that the Vendor has disclosed all such relevant information. (b) The Vendor agrees that if an actual or potential organizational conflict of interest is discovered after award, the Vendor will make a full disclosure in writing to FHI 360. This disclosure will include a description of activities which the Vendor has taken or proposes to take, after consultation with FHI 360, to avoid, mitigate, or neutralize the actual or potential conflict. (c) Remedies – FHI 360 may terminate this Agreement for convenience, in whole or in part, if it deems such termination necessary to avoid an organizational conflict of interest. If the Vendor was aware of a potential organizational conflict of interest prior to award or discovered an actual or potential conflict after award and did not disclose or misrepresented relevant information to FHI 360, FHI 360 may terminate the Agreement for default. (d) The Vendor further agrees to insert provisions which will conform substantially to the language of this clause, including this subparagraph (d), in any lower-tier subcontracts arising out of this Agreement.

**35. Export Control.** Vendor shall comply in all respects with all applicable local, state, and federal laws and regulations, as well as all U.S. statutes, regulations, and administrative requirements regarding relationships with non-U.S. governmental and quasi-governmental entities including but not limited to the export control regulations of the Department of State and the International Traffic in Arms Regulations ("ITAR"), the Department of Commerce and the Export Administration Act ("EAA"), the anti-boycott and embargo regulations and guidelines issued under the EAA, and the regulations of the U.S. Department of the Treasury, Office of Foreign Assets Control.

**36. Marking.** Each individual Task Order will provide the Branding and Marking requirements that will be required.

**37. Disputes.** All disputes and differences that may arise out of or in connection with the terms of this Agreement will be settled by negotiations between the FHI 360 Designated Representative and the Vendor's duly authorized representative. For non-U.S. domiciled Vendors, disputes which remain unresolved after sixty (60) days will be settled by arbitration in London, England, U.K. in accordance with the international arbitration rules of the International Chamber of Commerce. For U.S. based Vendors, disputes which remain unresolved after sixty (60) days will be settled by arbitration in Raleigh, North Carolina, in accordance with the arbitration rules of the American Arbitration Association. An arbitration panel of three (3) arbitrators will be selected, with each party designating a single arbitrator. The arbitrators designated by the parties will select the third arbitrator. The decision of the arbitration panel will be final. This contract is governed by and construed under the laws of the State of North Carolina, U.S.A. The provisions of the United Nations Convention for the International Sale of Goods are specifically excluded.

**38. Standards of Ethics and Business Conduct.** The Vendor acknowledges and accepts FHI 360's emphasis on the importance of accountability to those who benefit from FHI 360's work, and the parties' mutual accountability to each other, to project collaborators, and to our sponsors. The Vendor confirms its accountability to participants in FHI 360 programs, children, any vulnerable populations, and to all others whom its programs are intended to serve.

**38.1. Safeguarding of Children in FHI 360 Programs.** The Vendor must uphold the principles of the FHI 360 Safeguarding of Children policy (located on the FHI 360 Compliance office website at <https://www.FHI360.org/about-us/compliance-office>) and will undertake to ensure that no individual with any history of crimes against children will be placed in a position involving direct interaction with children as part of the work under this Subcontract. The Vendor and any employees, consultants, and volunteers of the Vendor ("Vendor Personnel") are prohibited from engaging in child abuse, exploitation, or neglect in its programs and activities, including without limitation, physical abuse; emotional ill-treatment; neglect or insufficient supervision; sexual abuse; exploitation through prostitution or production of pornographic materials; trafficking; or commercial, transaction or labor exploitation resulting in actual or potential harm to the child's health, well-being, survival, development or dignity. The Vendor Personnel must comply fully with host country and local child welfare and protection laws or with international standards, whichever gives greater protection, and must comply with US laws where applicable.

**38.2. Protecting Program Participants from Sexual Exploitation and Abuse (SEA).** The Vendor must uphold the principles of the United Nations Interagency Standing Committee on Protection from Sexual Exploitation and Abuse in Humanitarian Crises and FHI 360's policy on Protecting Program Participants from Sexual Exploitation and Abuse (located on the FHI 360 Compliance office website at <https://www.FHI360.org/about-us/compliance-office> ). Vendor and Vendor Personnel are prohibited from committing any form of sexual exploitation or abuse of any adults or children who are served by FHI 360 programs or encounter Vendor Personnel engaged in activities under this Agreement ("Program Participants"). Sexual exploitation means any actual or attempted abuse of Program Participants that takes advantage of their position of vulnerability or trust for sexual purpose. Sexual abuse means any actual or threatened physical intrusion of a sexual nature by force or under unequal or coercive conditions. Vendor must take steps to develop a culture that does not tolerate SEA and prevent, detect, and/or stop any SEA by Vendor Personnel.

**38.3 Violence Within the Work Environment.** The Vendor must uphold the principles of FHI 360's Violence-Free Workplace policy (located on the FHI 360 Compliance office website at <https://www.FHI360.org/about-us/compliance-office>) and take steps to prohibit and prevent any form of violence or threats of violence in the work environment, by or against any Vendor Personnel while on the Vendor's premises or work locations of the Vendor, at any events sponsored by the Vendor or while engaged in the performance of employment duties for Vendor whether on or off the Vendor's premises. The Vendor's policy must prohibit Vendor Personnel from perpetrating any form of violence or threats of violence against any staff or any Vendor partner, Vendor, or client; program participants; or anyone else with whom they interact in work-related situations.

**38.4 Harassment-Free Work Environment.** Vendor must uphold the principles of FHI 360's Harassment-Free Work Environment policy (located on the FHI 360 Compliance office website at <https://www.FHI360.org/about-us/compliance-office> ) and take steps to prohibit and prevent Vendor Personnel are prohibited from engaging in any form of harassment in the workplace or work-related situations based on race, color, ethnic or national origin, religion, age, sex, sexual orientation, gender identity, or perceived adherence to socially defined norms of masculinity and femininity, medical conditions, pregnancy, childbirth, and breastfeeding, nationality or citizenship, physical or

mental disability, genetic information or characteristics (or those of a family member), protected U.S. military or U.S. veteran status, status as a victim of domestic violence, sexual assault or stalking, and/or any other class, status, or characteristic protected by local law. The Vendor must strictly prohibit Vendor Personnel from harassing any Vendor Personnel, employees of any Vendor partner, Vendor, or client; program participants; or anyone else with whom the Vendor Personnel interact in work-related situations.

**38.5 Dealing with Governments or Officials; Compliance with Foreign Corrupt Practices Act.** The Vendor acknowledges that FHI 360 corporate policy (located on the FHI 360 Compliance office website at <https://www.FHI360.org/about-us/compliance-office>) requires that FHI 360's activities be conducted within the letter and spirit of the law. The Vendor, including any of its affiliates and their respective employees, agents officers, or other members of its management will not make any payment, either directly or indirectly, of money or other assets to government or political party officials, candidates for public office, or representatives of other businesses or persons acting on behalf of any of the foregoing (referred to collectively as "officials") where such payment would constitute a violation of any law. In addition, regardless of legality, the Vendor will make no payment either directly or indirectly to officials if such payment is for the purpose of influencing decisions or actions with respect to the subject matter of this Subcontract or any other aspect of FHI 360's operations.

**38.6 Reporting of any Violations.** For any referenced policies in Section 42 of this document that have a reporting requirement for Suppliers (which includes Vendors) the Vendor Personnel who observe, suspect, receive allegations of misconduct or violations of any of the above referenced policies and requirements in section 4 of this document are required to report the conduct immediately, either orally or in writing by contacting The Office of Compliance and Internal Audit (OCIA) via email at [Compliance@FHI360.org](mailto:Compliance@FHI360.org) and OCIA's Ethics and Compliance Hotline (1-800-461-9330 in the US, and +1-720-514-4400 outside the US). OCIA's reporting website either with your name or anonymously (<http://www.FHI360.org/anonreportregistry>). Please note that anonymous reports are generally more difficult to investigate due to limited information. When reporting, individuals are urged to provide as much detail as possible about the conduct, if possible, including identifying people who were involved or who witnessed the conduct, so long as this will not put the persons identified at risk of immediate harm. The Vendor must maintain policies that require Vendor Personnel to report any misconduct or violations to any other appropriate management within the Vendor's organization, with any appropriate law enforcement agency or other regulatory agency as required by local laws.

**Consequences of Violations.** Violations by the Vendor or Vendor Personnel and/or the failure to follow the requirements of the policy may result in immediate termination of Vendor's award. FHI 360 may pursue any contractual or other legal or equitable remedies that may be available.

**39. Personal Data Protection.** As used in this section, "GDPR" means Regulation (EU) 2016/679, the General Data Protection Regulation, and any implementing legislation, rules, or regulations issued by applicable supervisory authorities. The terms "Controller", "Personal Data", "Data Subject", "Processor", and "Processing" shall have the meanings set forth in Article 4 of the GDPR. To the extent Vendor processes any GDPR-governed Personal Data on behalf of FHI 360 and in relation to which FHI 360 is the Controller, Vendor shall: (a) act only on instructions from FHI 360 when processing Personal Data and keep records of all Processing activities; (b) take all appropriate technical and organizational measures to protect against unauthorized or unlawful Processing of, or accidental loss, destruction, or damage to, Personal Data; (c) process Personal Data in accordance with the GDPR; (d) not do or permit anything to be done which might cause FHI 360 or any of its affiliates to be in violation of GDPR; (e) immediately inform FHI 360 if it believes performance of the Services or compliance with any FHI 360 instruction violates or might reasonably be considered to violate GDPR; (f) immediately notify FHI 360 of receipt of any complaint, Data Subject access request, notice, or communication which relates directly or indirectly to the processing of Personal Data under this Agreement, and provide full co-operation and assistance to FHI 360 in responding to such complaint, request, notice, or communication; (g) notify FHI 360 promptly and without undue delay upon becoming aware of any unauthorized loss, corruption, damage, destruction, alteration, disclosure, or access to, or unauthorized or unlawful processing of, any Personal Data ("Personal Data Breach"), or any circumstances that are likely to give rise to a Personal Data Breach, timely providing FHI 360 with sufficient information for it to meet its obligation, if any, to report a Personal Data Breach under GDPR; (h) cooperate with FHI 360 and take commercially reasonable steps as may be directed by FHI 360 to assist in the investigation, mitigation, and remediation of any Personal Data Breach; (i) cooperate as requested by FHI 360 to enable it to comply with any exercise by a Data Subject of rights under GDPR with respect to Personal Data processed by Vendor under this Agreement, or to comply with any assessment, inquiry, notice, or investigation under GDPR; (j) only permit a third party sub-processor to process Personal Data subject to FHI 360's prior written consent and provided that the sub-processor's contract includes terms that are substantially the same as those set out in this section; and (k) not transfer, permit a third-party processor to transfer, or allow access to Personal Data outside the European Economic Area without FHI 360's prior written consent, subject to any conditions FHI 360 may impose, at its sole discretion. Vendor agrees that FHI 360 may from time to time have reasonable access to Vendor's premises, systems, and records in order to audit Vendor's security measures and procedures in connection with the processing of Personal Data and to ensure Vendor's compliance with this section. Vendor shall indemnify, defend, and hold FHI 360 and its affiliates harmless from and against all costs, claims, damages, or expenses incurred by them due to any failure by Vendor to comply with any of its obligations under this section.

**40. Prohibition on certain telecommunications and video surveillance services or equipment.** In accordance with Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year (FY) 2019 (Pub. L. 115-232), U.S. government contractors and grant recipients, such as FHI 360, may not use certain telecommunications and video surveillance services or equipment. Vendor acknowledges and understands this prohibition. Specifically, Vendor understands and agrees that under this Purchase Order, Vendor shall not procure or use any equipment, system, or service that uses "covered telecommunications equipment or services" as a substantial or essential component of any system, or as critical technology as part of any system. "Covered telecommunications equipment or services" includes telecommunications or video surveillance equipment or services (including, but not limited to, cell phones, security cameras, network switches, routers, and modems) manufactured by or with components from the following Chinese companies or their subsidiaries or their affiliates: (a) Huawei Technologies Company; (b) ZTE Corporation; (c) Hytera Communications Corporation; (d) Hangzhou Hikvision Digital Technology Company; (e) Dahua Technology Company. In the event Vendor identifies the use of "covered telecommunications equipment or services" under this Purchase Order, Vendor shall immediately notify FHI 360 Designated Representative identified on the subsequent Agreement or Purchase Order in writing.