

ATTACHMENT 2

FUNDER TERMS AND CONDITIONS

UK Department For International Development (DFID)

1. ELIGIBILITY

Unless otherwise expressly stated in the Contract, the Supplier represents and warrants that:

- a) it is not as a matter of law or official regulations in the Funder's country prohibited from having commercial relations with the Funder's or End-User's country;
- b) it does not owe any taxes to or is engaged in any dispute with any government department or agency in the Funder's country;
- c) it does not owe any taxes to or is engaged in any dispute with any government department or agency in the End-User's country;
- d) the Goods are not partially or wholly manufactured or sourced in a country prohibited from having commercial relations with the Funder's or End-User's country as a matter of law or official regulation in the Funder's country;
- e) the Funder's country does not, by complying with a decision of the United Nations Security Council, prohibit any import of goods from the country where the Goods are wholly or partially manufactured or any payment to persons or entities in such country;
- f) it is not prevented by any international sanction and/or embargo from performing its obligations pursuant to the Contract.

2. GUARANTEE

2.1 The Supplier guarantees that:

- a) unless otherwise stated in the Contract, the Goods shall be new, of satisfactory quality, fit for the purposes for which the Goods are ordinarily used, and for any purposes expressly made known in writing to the Supplier, and suitable for use in the Funder's or the End-User's country;
- b) the Goods shall have no defect arising from design, materials or workmanship, or from any act or omission of the Supplier, or the Supplier's employees or contractors and which may develop under proper use of the Goods in the conditions in the End-User's country;
- c) the Supplier hereby guarantees that the Goods shall remain free of any defect (other than those arising from reasonable wear and tear or improper use, for which the Supplier is not responsible) for a period of 12 (twelve) months after the Goods or any portion thereof have been delivered to the final designation indicated in the Contract, or 18 (eighteen) months after the date of shipment, whichever is the shorter..

2.2 Upon receipt of notification of a claim, the Supplier shall promptly repair or replace any defect in or damage to the Goods (or any part thereof) free of charge including transport charges to the End-User. If it is reasonably practicable or necessary for a defective part to be returned to the Supplier, the End-User shall arrange for it to be returned to the Supplier at the Supplier's cost. Where the Supplier supplies a part in replacement of a defective part, and does not at that time request the return of the

defective part, no responsibility for the defective part shall rest with IMA World Health or the Funder or the End-User.

- 2.3 If the Supplier fails to remedy the defect or damage within a reasonable time, IMA World Health or the Funder may, after giving notice to the Supplier, take such remedial action as may be necessary, at the Supplier's risk and expense, without prejudice to any other rights which they may have against the Supplier.
- 2.4 If any of the Goods or part thereof, are not manufactured by the Supplier, the Supplier shall ensure that the sub-contractor or manufacturer of the Goods or such part thereof shall be under the same liability to the Supplier as the Supplier's liability to IMA World Health and the Funder under the Contract.
- 2.5 No claim will be made by IMA World Health and the Funder against the Supplier for any kind of indirect or consequential loss including loss of profit.

3. INTELLECTUAL PROPERTY RIGHTS

The Supplier represents and warrants that it has full clear and unencumbered title to the Goods and that at the date of delivery of the Goods it shall have full and unrestricted rights to sell and transfer the Goods to the End-User.

4. USE OF DOCUMENTS, INFORMATION, ETC

- a) Except with the prior written agreement of IMA World Health, the Supplier shall not disclose the existence of the Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample or information issued or furnished by or on behalf of IMA World Health, to any person, other than a person employed by the Supplier in carrying out the Contract. Disclosure to any such person shall only be to the extent as may be necessary for the purposes of the Contract.
- b) Except with the prior written agreement of IMA World Health, the Supplier shall not make use of any information supplied by IMA World Health or any specification or other thing mentioned in clause above otherwise than for the purpose of performance of the Contract.
- c) The Supplier shall ensure that the Personnel comply with the confidentiality obligations set out in this Contract.
- d) Specifications, plans, drawings, patterns or samples mentioned in clause 12.1 above remain the property of IMA World Health (or the Funder or the End-User as the case may be) and must be returned (with all copies made) to IMA World Health on completion of the Contract.

5. CONFLICT OF INTEREST

- a) Neither the Supplier nor any of the Supplier's officers, employees, agents or subcontractors shall engage in any personal, business or professional activity which conflicts or could conflict with any of the Supplier's obligations under the Contract.
- b) Without prejudice to the provisions of this clause, the Supplier shall notify IMA World Health immediately of any actual or potential conflict together with recommendations as to how the conflict can be avoided.

- c) The Supplier shall ensure that its officers, employees, agents and subcontractors comply with the provisions of this clause.

6. CORRUPTION AND FRAUDULENT PRACTICES

- 6.1 The Supplier warrants that it has not and shall not:
 - a) offer or agree to give any person working for or engaged by the Funder or the End-User or IMA World Health any gift or other consideration, which could act as an inducement or a reward for any act or failure to act connected to the Contract, or any other agreement with the Supplier, including the award of the Contract to the Supplier and any of the rights and obligations contained within it; nor
 - b) enter into the Contract if it has knowledge that, in connection with it, any money has been, or will be, paid to any person working for or engaged by the Funder or the End-User or IMA World Health by or for the Supplier, or that an agreement has been reached to that effect, unless details of any such arrangement have been disclosed in writing to IMA World Health and accepted by IMA World Health in writing before execution of the Contract.
- 6.2 The Supplier shall, if requested by IMA World Health, make a declaration in a form acceptable to IMA World Health that it has not made any bribe or facilitation payment on IMA World Health's behalf or on behalf of the End-User or the Funder.
- 6.3 If the Supplier (including any Supplier employee, subcontractor or agent, in all cases whether or not acting with the Contractor's knowledge) breaches:
 - a) any of the provisions in this clause; or
 - b) any of the provisions of the Bribery Act 2010, or any similar legislation in relation to this Contract or any contract with the Funder or IMA World Health, IMA World Health may terminate the Contract by written notice with immediate effect.
- 6.4 Any termination under this clause shall be without prejudice to any right or remedy that has already accrued, or subsequently accrues, to IMA World Health, the Funder, or the End-User.
- 6.5 IMA World Health will not make payments to bank accounts in countries where the Supplier is not domiciled unless the Supplier provides written evidence satisfactory to IMA World Health that the payment is not contrary to the taxation laws and/or foreign exchange controls of the Supplier's country of domicile. IMA World Health reserves the right to refuse to make payments to such bank accounts in any event.

7. NO WAIVER

No failure or delay by IMA World Health or their Funder or the End-User to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.