

ATTACHMENT E

FHI 360 SUBCONTRACT TERMS AND CONDITIONS

1. INDEPENDENT CONTRACTOR

The Subcontractor in all matters is and shall be deemed to be an independent contractor. This Subcontract does not create the relationship of principal and agent, employer and employee, joint venture, or partnership between the Subcontractor and FHI 360. Neither Subcontractor nor anyone employed by it represent, act, purport to act, will be or be deemed to be an agent, representative, or employee of FHI 360. The Subcontractor will comply with all laws and assume all risks incident to Subcontractor's status as an independent entity. This includes, but is not limited to, responsibility for all applicable income taxes, associated payroll and business taxes, licenses and fees, and workers compensation and other insurance as required by law or as necessary for Subcontractor's protection in connection with work performed under this Subcontract.

2. CONFIDENTIAL INFORMATION

During the term of this Subcontract, Subcontractor and its employees may receive or have access to data and information that is confidential and proprietary to FHI 360 or its funder.

"Confidential Information" is defined as all technical, financial or business data or information that is proprietary to FHI 360 or its funder and is not generally known to the public, whether directly or indirectly disclosed, in verbal, written, graphic, photographic, electronic, prototypic, sample or any other form.

Confidential Information does NOT include information that:

- is or becomes generally available to the public other than as a result of a disclosure by Subcontractor;
- becomes available to Subcontractor on a non-confidential basis from a source that is not prohibited by a legal, contractual or fiduciary obligation from disclosing such information;
- is developed independently by Subcontractor without use of *Confidential Information*, as demonstrated by written records and evidence;
- was in Subcontractor's possession or known to Subcontractor prior to receipt from the disclosing party; or
- is required by law to be disclosed, provided Subcontractor notifies FHI 360 promptly and

gives FHI 360 an opportunity to seek an appropriate protective order.

Confidential Information may be used by Subcontractor or its employees only for purposes of performing the obligations under this Subcontract. Subcontractor will not reveal, publish or otherwise disclose Confidential Information to any third party without the prior written consent of FHI 360.

All *"Confidential Information"* disclosed to or otherwise made known to Subcontractor as a result of services under this Subcontract remains the sole property of FHI 360 and/or its funding sponsor. These obligations of confidentiality and non-disclosure will remain in effect at all times during the term of this Subcontract and for a period of five (5) years after the termination of this Subcontract.

3. ORGANIZATIONAL CONFLICTS OF INTEREST

- a) The Subcontractor represents that, to the best of the Subcontractor's knowledge and belief, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, or that the Subcontractor has disclosed all such relevant information.
- b) The Subcontractor agrees that if an organizational conflict of interest is discovered after award, the Subcontractor will make a full disclosure in writing to the FHI 360 Contracting Officer. This disclosure will include a description of activities which the Subcontractor has taken or proposes to take, after consultation with the FHI 360 Contracting Officer, to avoid, mitigate, or neutralize the actual or potential conflict.
- c) If the Subcontractor was aware of a potential organizational conflict of interest prior to award or discovered a conflict after award and did not disclose or misrepresented relevant information to the FHI 360 Contracting Officer, FHI 360 may terminate the Subcontract for default.
- d) The Subcontractor further agrees to insert provisions which will conform substantially to the language of this clause, including this subparagraph (d), in any Subcontract or consultant agreement arising out of this Subcontract.

4. STANDARDS OF ETHICS AND BUSINESS CONDUCT

The Subcontractor 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 Subcontractor confirms its accountability to participants in FHI 360 programs, children, any vulnerable populations, and to all others whom its programs are intended to serve.

4.1 Safeguarding of Children in FHI 360 Programs:

The Subcontractor 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 Subcontractor and any employees, consultants, and volunteers of the Subcontractor ("Subcontractor 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 Subcontractor 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.

4.2 **Protecting Program Participants from Sexual Exploitation and Abuse (SEA):** The Subcontractor 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>). Subcontractor and Subcontractor 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 Subcontractor 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. Subcontractor must take steps to develop a culture that does not tolerate SEA and prevent, detect, and/or stop any SEA by Subcontractor Personnel.

4.3 **Violence Within the Work Environment:** The Subcontractor 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 Subcontractor Personnel while on the Subcontractor's premises or work locations of the Subcontractor, at any events sponsored by the Subcontractor or while engaged in the performance of employment duties for Subcontractor whether on or off the Subcontractor's premises. The Subcontractor's policy must prohibit Subcontractor Personnel from perpetrating any form of violence or threats of violence against any staff or any Subcontractor partner, Subcontractor, or client; program participants; or anyone else with whom they interact in work-related situations.

4.4 **Harassment-Free Work Environment:** Subcontractor 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 Subcontractor 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 Subcontractor must strictly prohibit Subcontractor Personnel from harassing any Subcontractor Personnel, employees of any Subcontractor partner, Subcontractor, or client; program participants; or anyone else with whom the Subcontractor Personnel interact in work-related situations.

4.5 Dealing with Governments or Officials; Compliance with Foreign Corrupt Practices Act: The Subcontractor 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 Subcontractor, 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 Subcontractor 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.

4.6 Reporting of any Violations: For any referenced policies in Section 4 of this document that have a reporting requirement for Suppliers (which includes contractors and subcontractors) the Subcontractor and Subcontractor 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 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 Subcontractor must maintain policies that require Subcontractor Personnel to report any misconduct or violations to any other appropriate management within the Subcontractor's organization, with any appropriate law enforcement agency or other regulatory agency as required by local laws.

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

5. 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 Subcontractor processes any GDPR-governed Personal Data on behalf of FHI 360 and in relation to which FHI 360 is the Controller, Subcontractor 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 cooperation 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 Subcontractor 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. Subcontractor agrees that FHI 360 may from time to time have reasonable access to Subcontractor's premises, systems, and records in order to audit Subcontractor's security measures and procedures in connection with the processing of Personal Data and to ensure Subcontractor's compliance with this section. Subcontractor 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 Subcontractor to comply with any of its obligations under this section

6. PROTECTION OF HUMAN RESEARCH SUBJECTS

The Subcontractor is responsible for safeguarding the rights and welfare of human subjects involved in research under this Subcontract. When this Subcontract is funded with funds from a federal department or agency, the Subcontractor shall provide FHI 360 with written assurance satisfactory to the sponsoring federal department or agency that it will comply with the Common Federal Policy for the Protection of Human Subjects found in Part 225 of Title 22 of the Code of Federal Regulations. This policy applies to all research involving human subjects conducted, supported or otherwise subject to

regulation by any federal department or agency including research that takes place in foreign countries. In the case of research conducted outside of the United States and remains subject to 22 CFR 225, the Subcontractor shall submit to the FHI 360 Technical Monitor written assurance that procedures followed by the Subcontractor to protect human research subjects are at least equivalent to those in 22 CFR 225. In lieu of a written assurance, FHI 360 shall accept the existence of a current assurance, appropriate for the research in question, on file with the Office for Human Research Protections, HHS, or any successor office, and approved for federal wide use by that office.

Any research supported under this Subcontract that will involve human subjects as defined in 22 CFR 225 shall not commence until the required assurance has been submitted to FHI 360 and Subcontractor has been notified in writing by the FHI 360 Technical Monitor that all other requisite approvals of the Subcontractor's procedures pursuant to the protection of human research subjects have been obtained, as appropriate.

7. RESEARCH INTEGRITY AND MISCONDUCT

FHI 360 requires that research is conducted with the highest standards of integrity and ethical behavior regardless of the funding source or type of research. FHI 360 employees and related personnel have a personal responsibility for implementing FHI 360's Research Integrity and Misconduct policy (located on the FHI 360 Compliance office website at <https://www.fhi360.org/about-us/compliance-office>). The policy requires anyone having reason to believe that a person has engaged in research misconduct to report his/her concern of possible research misconduct to the FHI 360 Research Integrity Officer (RIO). When research is supported by the Public Health Service (PHS), National Science Foundation (NSF) and other Federal Agencies FHI 360 complies with special reporting requirements found in PHS Policies on Research Misconduct – 42 CFR Part 93 and NSF regulations at 45 CFR 689. FHI 360 subawardees and subcontractors are responsible for handling research misconduct in compliance with applicable federal regulations, local laws and agreement terms and conditions. In addition, FHI 360 subawardees and subcontractors are expected to inquire into, and if necessary, investigate and resolve promptly and fairly all instances of alleged research misconduct related to the subaward or subcontract, such review to comply with applicable federal regulations, local laws, and agreement terms and conditions. For determinations of research

misconduct while engaged in FHI 360 research activities, subawardees and subcontractors are required to provide a report to the RIO that details the facts and analysis that supports the conclusion, identifies the type of research misconduct, describes any mitigating steps and/or administrative and disciplinary actions taken, list all individuals and/or organizations notified, includes any supporting documentation of the misconduct, and provides any other relevant information pertinent to the investigation. At the discretion of the RIO, the RIO may take custody of all research records and evidence to meet any applicable legal and/or regulatory requirements.

8. PATIENT CARE

When the Subcontract involves patient care, the Subcontractor assumes full responsibility and liability for the care and treatment of its patients. To the extent that the training and other support provided to the Subcontractor by FHI 360-employed personnel under this Subcontract encompasses treatment of Subcontractor's patients, the Subcontractor acknowledges and agrees as follows:

- (a) that the Subcontractor is ultimately responsible for such treatment;
- (b) that such treatment will be deemed to be done by and on behalf of the Subcontractor;
- (c) that the Subcontractor waives any claim against FHI 360 and/or FHI 360-employed personnel arising out of patient treatment;
- (d) that the Subcontractor will assume full responsibility for any claims made by patients arising out of patient treatment, whether patient treatment was provided by Subcontractor-employed personnel or by FHI 360-employed personnel; and,
- (e) that the Subcontractor will hold FHI 360 harmless from any liability arising out of any assistance provided under the terms of this Subcontract.

9. INSPECTION AND ACCEPTANCE

Acceptance of the effort specified in the Scope of Work will be made by FHI 360's Technical Monitor or his/her authorized representative. FHI 360 has the right to inspect and evaluate the work performed under this Subcontract, and the premises where the work is being performed, at all reasonable times and in a manner that will not unduly delay the work.

10. CHANGES AND MODIFICATIONS

Any proposed change to this Subcontract **must be authorized by a written modification** to this

Subcontract **before** performance of work involved in the change may begin.

11. WORK PRODUCTS AND DELIVERABLES

All work products and other deliverables including technical reports required under this Subcontract shall be submitted FHI 360 Technical Monitor. Notwithstanding any other payment provision of this Subcontract, failure of Subcontractor to submit required reports when due, or failure to perform or deliver required work, supplies, or services to the reasonable satisfaction of FHI 360's Technical Monitor will result in the withholding of payment under the Subcontract unless such failure arises out of causes beyond the control and without the fault or negligence of Subcontractor.

12. WORKING FILES AND DATASETS

Subcontractor certifies that any working files maintained by Subcontractor including calculations, assumptions, interpretations of regulations, sources of information, and other raw data required in the performance of this Subcontract will be maintained in an accurate and complete manner. Upon request, Subcontractor will provide information contained in its working files to the FHI 360 Technical Monitor.

13. RECORD KEEPING AND ACCESS

The Subcontractor 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 Subcontract. 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 Subcontractor will retain all such records concerning this Subcontract for a period of three (3) years after final payment, unless a longer period is specified in the specific terms and conditions of the Subcontract, and for Subcontracts funded under U.S. Government Assistance Awards for a longer period if there is an applicable exception under 2 CFR 200.333 or where this regulation is codified by any US Government agency. For Subcontracts funded under U.S. Government Contracts any longer retention periods for certain records as specified in FAR 4.705 through 4.705-3, or any other longer retention periods specified in 4.703 (b). 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.

14. PUBLICATION

Unless otherwise specified in this Subcontract, the Subcontractor is encouraged to publish the results of its work under this Subcontract.

In the event the Subcontractor proposes any **academic** publication arising out of Subcontractor's work under this Subcontract, Subcontractor will contact the FHI 360 Technical Monitor and request copies of FHI 360's policies regarding publication and authorship (POL 05004 and POL 05007). Subcontractor agrees to comply with the requirements of those policies.

Disclaimer.

For both **academic** and **non-academic** publications resulting from work performed under this Subcontract, Subcontractor will include a disclaimer which is in substantially conformity with the following example:

"This publication was prepared under a Subcontract funded by Family Health International under Cooperative Agreement/Contract No. (insert Prime Award No.) funded by (insert name of funding sponsor). The content of this publication does not necessarily reflect the views, analysis or policies of FHI 360 or (insert name of funding sponsor), nor does any mention of trade names, commercial products, or organizations imply endorsement by FHI 360 or (insert name of funding sponsor)."

The Subcontractor will notify the FHI 360 Technical Monitor when any article, chapter or other publication is published, and will provide a copy of the published work to FHI 360.

15. TERMINATION

a) **Termination.** Funding for this Subcontract is contingent upon factors including the availability of funds to FHI 360, satisfactory progress by Subcontractor, and overall direction of the program of which this Subcontract is a part. FHI 360 may suspend or terminate this Subcontract in whole or in part, at any time, and for any reason, by providing five (5) days written notice of the effective date of the suspension or termination to Subcontractor. Subcontractor will be responsible for satisfying all of its obligations relative to this Subcontract through the effective date of termination. FHI 360 will only be responsible for costs incurred after the effective

date of suspension or termination as follows: (a) FHI 360 expressly authorizes such costs in the notice of suspension or termination or subsequently in writing, or (b) the costs result from non-cancelable obligations that were properly incurred before the effective date of suspension or termination, were incurred not in anticipation of the suspension or termination, and the costs would be allowable if the Subcontract were not suspended or expired normally at the end of the funding period in which the termination takes effect..

b) **Terms upon Termination.** Upon Termination, Subcontractor will:

1. cease all work except to the extent that is minimally necessary to shut down operations;
2. return or provide to FHI 360 all materials and work product related to this Subcontract; and,
3. provide FHI 360 with such services related to the transfer of tasks under the work statement to another Subcontractor as is specified by FHI 360 upon termination.

Subcontractor will be reimbursed for services provided up to the effective date of termination and any such transfer costs as are specified and approved in advance by FHI 360, provided such services are in accordance with the provisions of this Subcontract.

16. DISPUTES

All disputes and differences that may arise out of or in connection with the terms of this Subcontract will be settled by negotiations between the FHI 360 Contracting Officer and the Subcontractor's duly authorized representative. For non-U.S. domiciled Subcontractors, 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 Subcontractors, 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 Subcontract 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.

17. INDEMNIFICATION

The Subcontractor will indemnify, defend, and hold FHI 360 (and its affiliates, subsidiaries, directors, officers, employees and agents) harmless from and against any claims, liabilities, damages, losses, costs and expenses, including reasonable attorneys' fees, incurred or suffered by any of them that arise out of or relate, in whole or in part, to any actual or alleged act or omission by Subcontractor or its employees, agents or representatives in connection with the performance of any of the work specified in this Subcontract.

18. DEBARMENT AND SUSPENSION

The Subcontractor certifies that neither it nor its principals is presently excluded or disqualified from participation in this transaction by any Federal department or agency.

19. TERRORIST FINANCING

The Subcontractor will not engage in transactions with, or provide resources or support to individuals and organizations associated with terrorism, including those organizations and individuals identified in lists promulgated by the U.S. Government, the United Nations and the European Union. It is the legal responsibility of the Subcontractor to ensure compliance with these laws. This provision must be included in all lower tier subcontracts issued under this Subcontract.

20. PROHIBITION ON ASSISTANCE TO DRUG TRAFFICKERS

FHI 360 reserves the right to terminate this subcontract, to demand a refund or take measures if Subcontractor is found to have been, convicted of a narcotic offense or engaged in drug trafficking activities.

21. PROSTITUTION AND SEX TRAFFICKING

None of the funds made available under this subcontract may be used to promote or advocate the legalization or practice of prostitution or sex trafficking. Nothing in the preceding sentence shall be construed to preclude the provision to individuals of palliative care, treatment, or post-exposure pharmaceutical prophylaxis, and necessary pharmaceuticals and commodities, including test kits, condoms, and, when proven effective, microbicides. If this subcontract is for the implementation of HIV/AIDS programs, and if the Subcontractor is a non-US organization, the Subcontractor agrees that it is opposed to the practices of prostitution and sex trafficking and hereby certifies that it does not and

will not promote the legalization or decriminalization or practice of prostitution or sex trafficking.

22. PROHIBITION ON ABORTION-RELATED ACTIVITIES

No funds made available under this subcontract will be used to finance, support, or be attributed to the following activities:

1. procurement or distribution of equipment intended to be used for the purpose of inducing abortions as a method of family planning;
2. special fees or incentives to women to coerce or motivate them to have abortions;
3. payments to persons to perform abortions or to solicit persons to undergo abortions;
4. information, education, training, or communication programs that seek to promote abortion as a method of family planning; or
5. lobbying for abortion.

No funds made available under this subcontract will be used to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilizations as a means of family planning. Epidemiologic or descriptive research to assess the incidence, extent or consequences of abortions is not precluded.

23. DELAYS

Whenever Subcontractor knows, or reasonably should know, that any actual or potential condition is delaying, or threatens to delay, the timely performance of work under this Subcontract, Subcontractor will, within five (5) days, notify FHI 360's Technical Monitor, in writing, providing all relevant information with respect to the delay.

24. VALIDITY AND WAIVER

The invalidity in whole or in part of any provision of this Subcontract will not affect the validity of other provisions. A waiver of a breach of any provision of this Subcontract will not constitute a waiver of any subsequent breach of that provision or a breach of any other provision of this Subcontract. The failure of FHI 360 to enforce at any time or from time to time any provision of this Subcontract will not be construed as a waiver of the provision.

25. BINDING EFFECT AND ASSIGNMENT

This Subcontract will be binding upon and will inure to the benefit of FHI 360's successors and assigns. This Subcontract may not be assigned by Subcontractor without the prior written consent of

FHI 360's Contracting Officer, which consent will not be unreasonably withheld.

26. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

- a) The Subcontractor must comply with the requirements of 2 CFR 200.216 or FAR 52.204-25 as applicable under funder regulations and provisions incorporated into this Subcontract.
- b) Under any circumstance, as a condition of this Subcontract, the Subcontractor is prohibited from obligating or expending funds under this Subcontract to procure or obtain "covered telecommunications equipment or services" as a substantial or essential component of any system, or as critical technology as part of any system as defined in paragraph c. below.
- c) As defined in US Public Law 115-232, Section 889, "covered telecommunications, or services" means any of the following: (A) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). (B.) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities). (C.) Telecommunications or video surveillance services provided by such entities or using such equipment. (D.) Telecommunications or video surveillance equipment or services produced or provided by an entity that the U.S. Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country. "Covered foreign country" is defined in U.S. Public Law 115-232, Section 889 as the People's Republic of China.

- d) In the event the Subcontractor identifies covered telecommunications equipment or services being funded as a substantial or essential component of any system, or as critical technology as part of any system, during Subcontract performance, or the Subcontractor is notified of such by a lower tiered subcontractor/grantee/contractor, or by any other source, the subcontractor shall report the information in writing to the FHI 360 Contracting Officer.

27. ORDER OF PRECEDENCE

Any conflict between any of the provisions and attachments to this Subcontract shall be resolved by applying the following order of precedence:

- 1. Articles of this Subcontract;
- 2. Scope of Work – Attachment A;
- 3. FHI 360 Terms and Conditions - Subcontracts; and
- 4. Donor specific Terms and Conditions