

## **VISKASE COMPANIES, INC. FOREIGN ANTI-CORRUPTION POLICY**

### **1. INTRODUCTION**

Viskase Companies, Inc. (“Viskase”) is a Delaware corporation, which itself and through its subsidiaries is engaged in the production and sale of cellulosic, fibrous and plastic casings for the processed meat and poultry industry. This Foreign Anti-Corruption Policy (“Policy”) applies to Viskase and its subsidiaries (collectively the “Company”).

The Company is committed to maintaining the highest ethical standards and has zero tolerance for bribery or any other form of corruption. It is the Company’s policy to comply fully with the U.S. Foreign Corrupt Practices Act (“FCPA”), the U.K. Bribery Act, and all other equivalent and applicable anti-corruption and anti-bribery statutes and regulations (collectively, “Applicable Anti-Corruption Laws”). This Policy applies to the operations of the Company, including operations conducted by the affiliates, subsidiaries, agents, consultants, advisors, joint venture partners and other third-party representatives of the Company. All officers, directors, and employees of the Company (hereinafter collectively “Employees”) must comply with the Policy. Agents, consultants, and other third party intermediaries who operate in foreign jurisdictions or who may interact with foreign government officials in the course of their work for the Company must comply with the Policy. Senior management, including all officers and directors of the Company its and their subsidiaries, shall provide strong, explicit and visible support and commitment to this Policy and its requirements.

**If you have questions about the Policy, please seek clarification from the Senior Vice President, General Counsel of the Company (the “Compliance Officer”), at (630) 874-0780, or Compliance.Officer@viskase.com.** Any employee who becomes aware of a suspected past or potential future violation of the FCPA, the U.K. Bribery Act, any other Applicable Anti-Corruption Law, or the requirements of the Policy must report such information to the Compliance Officer immediately or **via the Company’s Whistleblower Hotline at (800) 916-7037, Company Identifier 8475.**

### **2. U.S., U.K. AND OTHER FOREIGN LAWS PROHIBIT FOREIGN BRIBERY**

#### **2.1. FCPA**

The FCPA’s anti-bribery provision<sup>1</sup> makes it a crime to offer or give a corrupt payment to a foreign official for the purpose of retaining or obtaining a business advantage. A payment is corrupt (*i.e.*, a bribe) if it is given with the intent to wrongfully induce or influence a foreign official to misuse his or her position to help the person or entity paying the bribe obtain or retain business.

Making a payment corruptly includes, among other things, providing something of value with the intent to induce the recipient to direct business to the payer or his/her client, or to obtain preferential treatment, legislation or regulations to assist the payer in obtaining or retaining business. This applies not only to payments made in direct exchange for business, such as a government contract, but also payments intended to lower the cost of doing business in a foreign country, such as lowering taxes and customs duties.

Bribes are not limited to money alone, but can be **anything of value**, including but not limited to gifts, stock rights, contractual rights, real estate, debt forgiveness, discounts, meals, travel expenses, entertainment, offers of employment or internships, political contributions, and charitable contributions, among many other interests arising from business relationships, whether to the foreign officials themselves or to their family members or friends. The FCPA prohibits bribes given both directly and indirectly (*e.g.*, paid through a third party intermediary) to a foreign official or for that official’s benefit.

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<sup>1</sup> The anti-bribery provisions apply to U.S. persons and businesses (domestic concerns), U.S. and foreign public companies listed on stock exchanges in the United States or which are required to file periodic reports with the Securities and Exchange Commission (issuers), and persons and businesses acting in the territory of the United States.

**Foreign officials** include, regardless of rank or position, any (i) employee or agent of a foreign government; (ii) employee or agent of a foreign government-owned or -controlled business, entity or instrumentality (such as a state-owned hospital or sovereign wealth fund); (iii) foreign political party or party official; (iv) candidate for foreign political office; and (v) employee or agent of a public international organization (such as the Red Cross, International Monetary Fund, the European Union, the United Nations, the World Bank, and similar organizations).

The FCPA also requires that the Company maintain books, records and accounts which, in “reasonable detail,” accurately and fairly reflect the transactions and dispositions of company assets. The FCPA also requires that the Company have an effective internal control system capable of detecting and preventing improper payments to foreign officials. A Company can violate the FCPA’s books and records provisions even if it does not violate the FCPA’s anti-bribery provisions.

The provisions of the FCPA have been broadly interpreted. If you have any questions about the FCPA, contact the Compliance Officer. The full text of the FCPA can be furnished by the Compliance Officer upon request.

## **2.2. U.K. Bribery Act**

The U.K. Bribery Act likewise makes it a crime to offer or give a financial or other advantage to a foreign official with the intent to influence that official to retain or obtain a business advantage. A financial or other advantage includes not only cash, entertainment, and travel, but also relatively small or insignificant items, whether or not they have any apparent monetary value, and intangible things, such as favors and offers of employment. The U.K. Bribery Act does not permit facilitation payments.

Foreign officials under the U.K. Bribery Act include, in addition to those set forth in the FCPA, any individual who exercises a public function for any foreign country. Unlike the FCPA, the U.K. Bribery Act is not limited to the offer or payment of bribes to foreign officials, but includes bribery of domestic government officials and bribery of actors in the commercial context. It also criminalizes requesting or receiving a bribe.

The U.K. Bribery Act also holds commercial entities liable for the bribery committed by any person associated with the entity, unless it has in place “adequate procedures” to prevent such conduct.

In circumstances where there is any connection to the U.K. (even if you are not in the U.K. or directly doing business with the U.K.), you must comply with the provisions of the U.K. Bribery Act. Although different parts of the U.K. Bribery Act have different jurisdictional scope, in broad terms it applies to: U.K. companies, partnerships and other corporate entities; U.K. nationals; non-U.K. nationals ordinarily resident in the U.K.; foreign corporate bodies carrying on a business or part of a business in the U.K.; any individual or corporate body carrying out bribery in the U.K. (irrespective of where they are resident); and senior officers of a body corporate that commits an offense under certain sections of the U.K. Bribery Act (again irrespective of where they are resident).

If you have any questions about the U.K. Bribery Act, contact the Compliance Officer. The full text of the U.K. Bribery Act can be furnished by the Compliance Officer upon request.

## **2.3. Other Applicable Anti-Corruption Laws**

The Company has facilities in Brazil, France, Germany, Italy, Mexico, Philippines, Poland and the U.S. Its global sales and distribution network reaches nearly every country in the world. It is the Company’s policy to adhere to all laws affecting its business. In furtherance of this global mission, this Policy specifically incorporates various country-specific legal requirements imposed by those countries where we operate facilities. These local legal requirements are described on Appendices E through K to this Policy.

In short, giving anything of value to a public official or private individual to induce corruptly that person to violate the law or the obligations of their office or employment is prohibited. Giving anything of value under such circumstances should not be a part of any Viskase business activity. In fact, giving a gift to a government official of any kind, directly or indirectly, is generally not permitted. A gift is any gratuity, entertainment, or any other tangible or intangible item having a monetary value, including but not limited to promotional items, cash, cash

equivalents (such as gift cards and gift certificates), food, beverages,

and tickets to sporting or other entertainment events. Any questions regarding the propriety of offering things of value to a private individual should be directed to the Compliance Officer.

#### **2.4. Liability under the FCPA and the U.K. Bribery Act and other applicable anti-corruption law(s)**

The Company can be held liable for violations of the FCPA, the U.K. Bribery Act and other anti-corruption laws governing its conduct by officers, directors, employees or third parties acting on the Company's behalf, by its subsidiaries, or by joint venture partners. For example, the Company can be held responsible for the acts of those parties where an officer, director, or employee of the Company is determined to have some level of knowledge about a FCPA, U.K. Bribery Act or other applicable anti-corruption law violation. Thus, the Company itself can be held liable where someone within the Company authorizes a third party intermediary in making an illicit FCPA, U.K. Bribery Act or other applicable anti-corruption law payment to a foreign official, or where someone at the Company confers money or anything else of value upon a third party with some level of knowledge that all or some of the funds will be paid either directly or indirectly to a foreign official.

Proof of actual knowledge is not required to constitute a violation of the law; rather, knowledge may be established if a person is aware of or consciously disregards or deliberately ignores a high probability that an illegal bribe will be offered or paid. "Red flags" that may provide a reason to know that a third party intermediary will use funds provided by the Company to violate the FCPA are included in Section 7.2 and Appendix B. In addition, civil monetary penalties can be imposed for violations of the books and records provisions even for unknowing violations, *i.e.*, even where a showing cannot be made that there was knowledge of the underlying violation.

Employees must never "put their heads in the sand" in dealing with individuals who act on behalf of the Company. Where circumstances suggest that a Company officer, director, employee, agent, consultant or other third-party intermediary, subsidiary, or joint venture partner has violated or will violate the FCPA, the U.K. Bribery Act or other applicable foreign anti-corruption law, employees must immediately report such knowledge, belief, or suspicion, as provided in this Policy.

**Violations of the FCPA, the U.K. Bribery Act, and other applicable foreign anti-corruption laws can result in significant fines, jail time, and other serious consequences. Under the FCPA, the Company would be precluded from paying criminal penalties imposed on employees.**

### **3. PROHIBITIONS AND REQUIREMENTS**

- 3.1.** Employees may not give, offer or promise to give a foreign official anything of value, directly or indirectly, to influence the foreign official in the performance of his/her official duties, in order to obtain or retain business, to secure any improper advantage, or to induce any kind of favorable outcome.
- 3.2.** Viskase's policy is that in general, officers and employees may not offer or give a **gift of value** (no matter how small the value) to a foreign official. Gifts are any gratuity, entertainment, or any other tangible or intangible item having a monetary value, including but not limited to promotional items, cash, cash equivalents (such as gift cards and gift certificates), food, beverages and tickets to sporting or other events.
- 3.3.** Officers and employees may not make **political contributions** on the Company's behalf to a foreign political party or official, or a foreign political candidate. This prohibition does not extend to Company employees' personal political contributions.
- 3.4.** Officers and employees may not make **charitable donations** on the Company's behalf for the benefit of a foreign official. This prohibition does not extend to Company employees' personal charitable contributions.

- 3.5. DETERMINING WHETHER SOMEONE IS A FOREIGN OFFICIAL CAN BE COMPLICATED BECAUSE ANTI-CORRUPTION LAWS COVER A BROAD RANGE OF PUBLIC OFFICIALS. SEE DEFINITION AT SECTION 2.1 ABOVE. EMPLOYEES SHOULD CONSULT WITH THE COMPLIANCE OFFICER IF THERE IS ANY QUESTION REGARDING WHETHER AN INDIVIDUAL IS A FOREIGN OFFICIAL.**
- 3.6.** Employees designated by the Compliance Officer must attend anti-corruption training at least once every two years. Specialized training may be required annually for certain employees selected by the Compliance Officer.
- 3.6.1.** Each employee designated for training, and any other individual or entity designated by the Compliance Officer, shall be asked to certify that such employee, individual or entity has fulfilled the training requirements and has not knowingly violated the Policy, the FCPA, the U.K. Bribery Act, or any other Applicable Anti-Corruption Law. Such certification may be evidenced by electronically retained records of completion of automated training sessions.
- 3.6.2.** Failure to provide such certification may result in disciplinary action or other sanctions.
- 3.7.** In circumstances where the U.K. Bribery Act applies, this Section shall apply to all third parties, and not just foreign officials with the following exception: Notwithstanding the general prohibitions set out herein, including those contained in clause 3.2, this policy permits (without the need to seek prior approval from the Compliance Officer) offering or giving anything of value to any third party who is not a foreign official in respect of reasonable and appropriate hospitality or entertainment for the purposes of: establishing or maintaining good business relationships; improving or maintaining our image or reputation; or marketing or presenting our products and/or services effectively, and provided that each of the following conditions are satisfied:
- 3.7.1.** the value of does not exceed £100;
- 3.7.2.** it is not made (i) with the intention of inducing or rewarding a person to perform improperly a relevant function or activity connected with a business or done in the course of a person's employment; (ii) to induce or reward improperly a third party to obtain or retain business or a business advantage; or (iii) in explicit or implicit exchange for favors or benefits;
- 3.7.3.** it is given in the Company's name, not in an Employee's name;
- 3.7.4.** it does not include cash or a cash equivalent (such as gift certificates or vouchers);
- 3.7.5.** it is appropriate in the circumstances, taking account of the reason for the gift, its timing and value;
- 3.7.6.** it is properly recorded in the Company's books, given openly, not secretly; and
- 3.7.7.** it otherwise complies with any applicable local law.
- 3.8.** The Company's Internal Auditor will conduct internal audits without prior notice to ensure compliance with the Policy. The Internal Auditor will develop a schedule for conducting such audits.
- 3.8.1.** Testing and analysis of Company transactions and of the Company's books and records, and accounts for possible violations of the FCPA, all other Applicable Anti-Corruption Laws and this Policy shall be a regular part of the Company's audit process and all employees shall cooperate fully with the Company's audit staff in that regard.

- 3.8.2. The results of all Anti-corruption auditing activities shall be communicated to the Company's Chief Executive Officer, its General Counsel, and the Viskase Audit Committee promptly after completion of the relevant audit.
- 3.9. The Compliance Officer may report allegations of violations and/or any perceived failure of the Policy directly to the Viskase Audit Committee.

#### 4. PERMISSIBLE EXPENDITURES

- 4.1. Under certain circumstances, reasonable business expenses, such as gifts, meals and entertainment expenses, and travel expenses, may be made for the benefit of foreign officials. Business-related expenses must never give the appearance of impropriety. All such expenditures must be directly related to a Company business purpose, such as demonstrating, explaining, or promoting Company products or services or the execution or performance of a contract with a foreign government or agency, and be permissible under the local laws of the foreign official's country and the policies of the foreign official's employer. As set forth below, special care must be used when making such expenditures. **In all such circumstances, prior written approval from the Compliance Officer must be obtained in accordance with Section 5.**
- 4.1.1. **Gifts** provided to foreign officials: (1) must be provided only as a courtesy or token of regard or esteem, or in proportionate return for hospitality, and not in return for a business advantage; (2) must be of "nominal" value, as judged in the context of the type of transaction involved, local custom, and local business practices; (3) may not be in the form of cash or cash equivalents (*e.g.*, a money order); (4) if possible, should be for official use, as opposed to the individual or personal use of the foreign official to whom it is given; (5) must showcase, relate to or promote the Company's products and services, and generally should bear the Company's logo; and (6) must be recorded accurately in the Company's books and records, including in the annual Official Gift Log, maintained by the Compliance Officer.
- 4.1.2. **Meals and entertainment expenses** for foreign officials must be: (1) in good taste; (2) reasonable under the circumstances; (3) of modest value; and (4) commensurate with local custom or practice.
- 4.1.3. **Travel expenses** for foreign officials, including transportation, lodging, and meals, must be reasonable under the circumstances. A detailed itinerary must be reviewed and approved in advance by the Compliance Officer. Travel, lodging, meals and other similar expenses for a foreign official's spouse, children, other family members or travel companions that are not directly related to a legitimate Company business purpose cannot be paid or reimbursed by the Company. Lodging paid by the Company for the benefit of a foreign official may cover only expenses actually incurred during the period of travel directly related to a Company business purpose and, whenever possible, should be limited to business hotels.
- 4.2. In certain limited circumstances, the FCPA permits "facilitating payments" to foreign officials to expedite "routine governmental action," such as obtaining permits and licenses, processing governmental papers, providing police protection and utilities services, and scheduling inspections, provided that the action is non-discretionary and of a clerical or administrative nature. Routine government action does not include any decision by a foreign official regarding whether, or on what terms, to award new business to, or to continue business with, a particular party. The U.K. Bribery Act does not provide an exception for facilitation payments (which often are illegal under the laws of other countries). **No employee may offer or give a facilitating payment without obtaining prior written approval from the Compliance Officer.**

- 4.3. The Company maintains detailed records of all expenditures for foreign officials. When a Company employee seeks reimbursement for such expenditures, the employee must include in the expense report: (a) the name and title of the party for whom the expenditure is being made, (b) the purpose of the expenditure, (c) the amount of the expenditure, (d) the specific amount expended for the foreign official; (e) proof of payment (e.g., a receipt); and (f) the names of all individuals who participated in the event, if applicable.
- 4.4. See Appendices E through K for Additional Information on Permissible Expenditures.

## 5. APPROVAL PROCEDURE

- 5.1. All requests seeking permission to make an expenditure to or for the benefit of a foreign official must be submitted via a completed **Foreign Official Payment Request Form** to the Compliance Officer, a copy of which may be found in the Corporate Policies tab on the Viskase intranet Portal, <https://workspace.viskase.com/sites/corppolicies/SitePages/Home.aspx>.
- 5.2. Approved payments for foreign officials must be sent to the government, agency, department, instrumentality or entity that employs the foreign official.
- 5.3. Approved payments for foreign officials cannot be provided in cash or paid directly to the foreign official.
- 5.4. All such expenditures must be recorded in accordance with the Company's T&E form and include (a) the name and title of the party for whom the expenditure is being made, (b) the purpose of the expenditure, (c) the amount of the expenditure, (d) the specific amount expended for the foreign official; (e) proof of payment (e.g., a receipt); and (f) the names of all individuals who participated in the event, if applicable.
- 5.5. **In circumstances where the U.K. Bribery Act applies, this Section shall apply to all third parties and not just foreign officials. Questions regarding whether the U.K. Bribery Act applies should be referred to the Compliance Officer.**
- 5.6. See Appendices E through K for Additional Information on Approval Procedures.

## 6. BOOKS, RECORDS AND CONTROLS

- 6.1. The Company is required to maintain books, records and accounts which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of Company assets. This requirement applies to all Company transactions, not just payments to foreign officials. No undisclosed or unrecorded fund or asset may be established or maintained for any purpose. Employees are prohibited from falsifying accounting records and must take all reasonable care to ensure that any information provided to auditors is accurate.
- 6.2. The Company is required to maintain an effective internal control system capable of detecting and preventing improper payments to foreign officials. The internal controls system should use measures that provide reasonable assurances that:
- 6.2.1. transactions are executed in accordance with management's general or specific authorization;
- 6.2.2. transactions are recorded as necessary (i) to permit preparation of financial statements in conformity with Generally Accepted Accounting Principles or any other criteria applicable to such statements, and (ii) to maintain accountability for assets;
- 6.2.3. access to assets is permitted only in accordance with management's general or specific authorization; and

- 6.2.4.** the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.
- 6.3.** The FCPA requires “reasonable detail” and “reasonable assurances,” which mean the level of detail and degree of assurance that would satisfy prudent officials in the conduct of their own affairs. That standard has been interpreted to mean that the records and control requirements do not connote an unrealistic degree of exactitude or precision, but it is higher than the materiality standard which typically applies in accounting. Accordingly, even relatively small payments or gifts should be recorded accurately in order to satisfy the FCPA’s requirements.
- 6.4.** Any perceived failure of the Company’s books and records to accurately reflect, in reasonable detail, the transactions and dispositions of Company assets shall be reported to the Company’s General Counsel and the Compliance Officer, who shall consult with the IEP co-General Counsels and the Chief IEP Auditor in order to determine whether a possible violation of the FCPA exists and, if so, whether the matter should be reported to the Viskase Audit Committee, and appropriate actions taken.
- 6.5.** A deliberate violation of the FCPA’s books and records provisions may be punished with criminal sanctions (imprisonment and/or fine). Any violation (even if unknowing) may be punished by a civil fine.

## **7. FOREIGN AGENTS AND CONSULTANTS**

### **7.1. Agents, Consultants, Distributors and Third Party Intermediaries**

- 7.1.1.** “Agents” for the purposes of this policy include any foreign third party intermediary engaged by the Company to act on the Company’s behalf, or in fact does so, primarily to facilitate sales. This may include consultants or distributors who act on the Company’s behalf.
  - 7.1.2.** “Consultants” covered by this policy include foreign parties who provide advice and assistance to the Company concerning business operations and who either act on behalf of the Company or are involved in activities that include, directly or indirectly, interacting with foreign officials or other non-company personnel for the purpose of assisting the Company on obtaining, conducting or retaining business. Consultants who do not act on behalf of the Company and are not involved in activities that include, directly or indirectly, interacting with foreign officials or other non-company personnel for the purpose of assisting the Company on obtaining, conducting or retaining business, are not considered “consultants” for purposes of this Policy.
  - 7.1.3.** “Distributors” are foreign third party intermediaries that facilitate sales to which the Company sells or distributes product. The vast majority of the Company’s distributors are resellers of product. A significant number of them sell products that are competitive with the Company’s products. Accordingly, while their actions done in concert with the Company may result in liability for the Company, distributors are not generally agents that can bind the Company.
  - 7.1.4.** “Third Party Intermediaries” for purposes of this Policy include agents, consultants, and distributors, as defined above.
- 7.2.** When dealing with third parties who act on behalf of the company, employees must never “put their heads in the sand.” Employees must be alert for “red flags” that pose a danger of making an illegal FCPA payment. The existence of a “red flag” may mean that additional due diligence is required. If an employee knows, reasonably believes or has a suspicion that a “red flag” exists with respect to a third party intermediary, that individual must immediately report such

knowledge, belief, or suspicion, as provided in this Policy. Potential red flags, which will be scrutinized carefully and thoroughly, include:

- 7.2.1. The third party intermediary has a dishonest reputation, *i.e.*, is reported to have paid bribes in the past or is known to treat such corrupt practices as a normal, customary or acceptable means of doing business;
  - 7.2.2. The third party intermediary has a close familial connection to, or other personal relationship with, officials in the jurisdiction(s) in which he/she likely will be asked to do work for the Company;
  - 7.2.3. The third party intermediary's commission or fees are outside the range of commissions or fees that are customary for the same or similar work within the industry or region;
  - 7.2.4. The third party intermediary refuses or is reluctant to sign contractual representations and warranties that he/she has not violated, or will not violate, the Company's Policy;
  - 7.2.5. The third party intermediary requests that his or her commissions or fees be paid (i) in cash, (ii) to a bank or other financial institution in a foreign country unrelated to the transactions, or (iii) to undisclosed other parties;
  - 7.2.6. The third party intermediary requests or encourages the preparation of fake invoices or other documentation in connection with a transaction;
  - 7.2.7. The third party intermediary requests the use of a "side agreement," *i.e.* a commitment, whether verbally, written or electronically transmitted that was not part of the written master arrangement and which materially modifies one or more terms of the master agreement;
  - 7.2.8. The third party intermediary is unwilling or unable to produce work product, reports, or other corroboration of work done on behalf of the Company;
  - 7.2.9. The transaction takes place in a foreign country with a general reputation for bribery and/or public corruption. Countries that are perceived to have a high level of corruption are identified in the Transparency International Corruption Index. See [www.transparency.org/cpi2014/results](http://www.transparency.org/cpi2014/results). Operations in those countries requires extra vigilance; or
  - 7.2.10. The third party intermediary was "recommended" by a foreign official.
  - 7.2.11. Additional "red flags" are described in Appendix B.
- 7.3. If any employee knows, reasonably believes or has a suspicion that a payment or promise of payment prohibited by an Applicable Anti-Corruption Law has been, is being or may be made by a third party intermediary for or on the Company's behalf or for the benefit of the Company, that individual shall immediately report such knowledge, belief or suspicion as provided in this Policy, and shall use all reasonable efforts to prevent the payment or promise of payment from occurring.
- 7.4. The Company is committed to hiring only ethical and reputable third-party intermediaries. Prior to retaining a foreign third party intermediary, the Company will perform due diligence on the prospective foreign third party intermediary before the third party intermediary can do any work for or on behalf of the Company. (*See* Appendix B for sample pre-retention due diligence measures.) All due diligence documents and the agreement setting forth the terms of retention and scope of authority of a particular third party intermediary must be maintained in a single master file for that third party intermediary. Prior to retaining a foreign third party intermediary as



defined in Section 7.1, employees should consult with and seek approval from the Compliance Officer.

- 7.5. **All contracts to hire a foreign third party intermediary as defined in Section 7.1 must be approved by the General Counsel and the Compliance Officer and must contain anti-corruption representations and warranties** (see Appendix A for sample representations and warranties). A copy of the contract must be maintained by the Compliance Officer and must reflect the approval of the Compliance Officer and the Chief Financial Officer.
- 7.6. After retaining a third party intermediary to facilitate sales, the Company will conduct post-retention due diligence, including but not limited to, maintaining and updating any new information obtained during periodic reviews of the intermediary's work. (See Appendix C for sample post-retention due diligence measures.)
- 7.7. All contracts which provide for the disbursement of funds by the Company to a third party intermediary for services related to business transactions outside the United States shall be in writing and shall require the other party to submit a written invoice and to certify that during the period covered by the invoice the other party has complied with all of its obligations under the relevant contract and is in compliance with the terms of its contract with the Company on the date of such certification. Contracts requiring the disbursement of funds by the Company for such services shall also require that funds shall be transferred only to a bank account owned by the designated recipient and that such account shall be located in the jurisdiction where the relevant business services are to be performed unless the Compliance Officer determines that payment in another jurisdiction does not violate applicable law, and that a valid business reason exists for payment in another jurisdiction.

## 8. ACQUISITIONS

- 8.1. In certain situations, when the Company or any of its subsidiaries makes an acquisition, whether by stock purchase, asset purchase, merger or otherwise, or enters into a joint venture, the Company could have potential liability under the FCPA, the U.K. Bribery Act, or other Applicable Anti-Corruption Laws, for actions taken by the other entity. Therefore, when the Company or a subsidiary pursues an acquisition or joint venture, Icahn Enterprises L.P.'s ("IEP") Compliance Officer or the Company's Compliance Officer will conduct a risk-based assessment of anti-corruption risks associated with the target, as well as the actions identified herein. The Company shall consult with IEP's Compliance Officer and co-General Counsels to determine who performs the assessment.
- 8.2. In accordance with this assessment, IEP's Compliance Officer, the Company's General Counsel, and/or the Company's Compliance Officer will oversee the due diligence process with respect to anti-corruption risks associated with the proposed acquisition. The due diligence process shall include an investigation of the acquisition target's compliance with the FCPA, the U.K. Bribery Act, and all other Applicable Anti-Corruption Laws. The particular information to be obtained in connection with such investigation shall be specified by, and the written results of such investigation shall be reviewed and approved by, the General Counsel and Compliance Officer. (See Appendix B for sample pre-acquisition due diligence measures and Appendix D for sample due diligence questions.) The Company shall consult with IEP's Compliance Officer to determine who will oversee the due diligence process with respect to anti-corruption risks.
- 8.3. When pre-acquisition due diligence is conducted by the Company, the Company must promptly report the results of its anti-corruption due diligence to IEP's Compliance Officer prior to acquiring the target company or entering into the joint venture. IEP's Compliance Officer shall notify IEP's co-General Counsels, IEP's Chief Auditor, and the Company's General Counsel and Internal Auditor of the results of the due diligence. No entity or asset which either the Company's Compliance Office or IEP's Compliance Officer determines to pose anti-corruption risks will be

acquired absent approval by IEP's Compliance Officer, IEP's co-General Counsels, and the Company's General Counsel.

- 8.4.** Where such anti-corruption due diligence is not practicable prior to acquisition of a new business for reasons beyond the Company's or subsidiary's control, or due to any applicable law, rule, or regulation, the Company will conduct anti-corruption due diligence subsequent to the acquisition. When the due diligence is conducted by the Company, the Company must report the results of its anti-corruption due diligence to IEP's Compliance Officer promptly. The Company will ensure that the Policy will apply as quickly as is practicable, but in any event no less than one year post-closing, to newly-acquired businesses, and will promptly, for those acquisitions that are determined not to pose corruption risk, conduct periodic anti-corruption audits, or will incorporate anti-corruption components into financial audits. The Company will train directors, officers, employees, agents, consultants, representatives, distributors, joint venture partners, and relevant employees of the acquired business who present corruption risk to the Company, on the Applicable Anti-Corruption Laws and the Company's Policy, and conduct an anti-corruption-specific audit of all newly acquired businesses within 18 months of acquisition. The Company must report the results of that audit to the Compliance Officer, the Company's General Counsel, the Company's Internal Auditor, and IEP's Compliance Officer promptly, who will notify IEP's co-General Counsels and IEP's Chief Auditor.
- 8.5.** The Company or the subsidiary, depending on the entity involved, will incorporate anti-corruptions representations and warranties, as applicable, into relevant agreements. (*See Appendix A for sample representations and warranties.*)

## **9. SUBSIDIARIES AND JOINT VENTURE PARTNERS**

The Company maintains the highest ethical standards, has zero tolerance for bribery or any other form of corruption, and adheres to strict anti-corruption policies. Compliance by the Company will be regularly monitored through the audit procedure set forth in Section 3.8 of this Policy and as follows:

- 9.1.** The Company will maintain and implement anti-corruption policies that comply with the FCPA and any other Applicable Anti-Corruption Laws in the jurisdictions in which it has a physical presence, including for each of its subsidiaries. The Company's Policy will be reviewed by IEP, in consultation with IEP's outside counsel.
- 9.2.** The Company will immediately notify IEP's Compliance Officer regarding any circumstance under which the Company, including its subsidiaries, determines that there may be a reasonable basis to conclude that there is a violation of the FCPA, the U.K. Bribery Act, or of any other Applicable Anti-Corruption Law.
- 9.3.** During its quarterly disclosure committee calls, the Company will report whether any issues or concerns have arisen under the Policy.
- 9.4.** On a regular basis, and no less than semi-annually, the Compliance Officer of the Company will discuss the Company's compliance with the Policy with IEP and IEP's outside counsel, including compliance by each of the Company's subsidiaries.
- 9.5.** The Company, including its subsidiaries, will ensure that it has unfettered access and audit rights to all financial records of any joint venture partner (*see Appendix A for sample contractual representations*), unless otherwise approved by IEP's Compliance Officer. The Company, including its subsidiaries, will require that its joint venture partners comply with the FCPA's accounting requirements and to maintain adequate procedures to prevent bribery under the U.K. Bribery Act and other applicable anti-corruption laws, in certain instances.

- 9.6. All joint venture agreements entered into will include representations and warranties whereby the joint venture partner or partners certifies that the joint venture partner or partners, including the joint venture partner's or partners' directors, officers, employees, and agents, are in full compliance with all Applicable Anti-Corruption Laws. Prior to entering a joint venture, the Company or subsidiary, depending on the entity involved, will conduct anti-corruption due diligence that is similar in scope to the measures set forth in Appendix B and report the results of that due diligence to IEP's Compliance Officer, who will notify IEP's co-General Counsels and IEP's Chief Auditor. After entering a joint venture, the Company or its subsidiary, depending on the entity involved, will conduct anti-corruption due diligence that is similar in scope to the measures set forth in Appendix C and promptly report the results of that due diligence to IEP's Compliance Officer, who will notify IEP's co-General Counsels and IEP's Chief Auditor.
- 9.7. All contracts entered into with foreign third party intermediaries will contain anti-corruption representations and warranties appropriate for the particular third party intermediary (*see* Appendix A for sample representations and warranties). Prior to retaining a foreign third party intermediary, the Company and its subsidiaries will conduct anti-corruption due diligence appropriate for the particular third party intermediary (*see* Appendix B for sample due diligence procedures). To the extent that such due diligence raises red flags, the Company and its subsidiary will report the red flags to and seek approval from the Company's Compliance Officer and IEP's Compliance Officer before retaining the foreign third party intermediary. After retaining a foreign third party intermediary, the Company or its subsidiary, depending on the entity involves, will conduct anti-corruption due diligence and, where red flags arise, promptly report the results of that due diligence to the Company's Compliance Officer and IEP's Compliance Officer (*see* Appendix C for sample post-retention due diligence procedures).

## 10. DUTY TO REPORT AND NO RETALIATION

- 10.1. Any Company employee who is solicited by a foreign government official for money, gifts, or anything of value, and any Company employee who has knowledge of or a good faith belief that there has been or will be a violation of the Policy, the FCPA, the U.K. Bribery Act, or any other Applicable Anti-Corruption Law must ***immediately report the circumstance to either the Compliance Officer or via the Company's Anonymous Ethics Hotline at (800) 884-1340.***
- 10.2. No employee who in good faith reports a violation of the Policy, the FCPA, the U.K. Bribery Act, or any other Applicable Anti-Corruption Law shall suffer harassment, retaliation or adverse employment consequence. Any employee who retaliates against an employee who has made a good faith report under this policy is subject to discipline up to and including immediate termination of employment.
- 10.3. **The failure to abide by and/or report a violation of the Policy, the FCPA, the U.K. Bribery Act or other Applicable Anti-Corruption Law is considered a violation of Company policy and will result in disciplinary action being taken, up to and including termination.**

## 11. TRANSITION RULES

The Company currently uses agents, distributors and consultants globally. While the substantive provisions of this Policy will apply immediately to them and their activities, certain aspects of this Policy (e.g., inclusion of representations and warranties in contracts, pre-retention and post retention diligence, training, and the like) will be phased in with respect to existing agents, distributors and consultants over time. New agents, distributors and consultants will be subject to these new contractual and diligence processes. During the transition of existing agents, distributors and consultants, no new, modified, amended, extended, or renewed agreements with such existing third party intermediaries will be entered into without the express written approval of the Company's General Counsel and only upon full implementation of this Policy as it relates to such third party intermediaries.

## APPENDIX A

### Sample Representations & Warranties for Contracts with Agents, Consultants, Distributors and Joint Venture Partners

Agents, consultants, distributors and joint venture partners create different compliance risks. The below representations cover a broad range of anti-corruption principles not all of which are implicated in each agency, consultancy, distributor or joint venture relationship. For example, consultants hired by the Company that are not involved in sales, distribution or any interaction with government officials may present little, if any, risk of improper interaction with the government. The below listed points provide options to ensure that the risk in each relationship is addressed. Failure to include certain representatives, warranties or aspects thereof in contracts should only be done where the risk of non-compliance is minimal because of the scope of the Company-third-party business relationship.

1. [Agent/Consultant/Distributor/Joint Venture Partner] has reviewed, understands, and will abide by the Foreign Corrupt Practices Act (“FCPA”), the U.K. Bribery Act, [name of company/subsidiary]’s (“the Company’s”) anti-corruption compliance policies and procedures, and any applicable anti-corruption laws and regulations of [Agent/Consultant/Distributor/Joint Venture Partner]’s home country and of any other jurisdiction where [Agent/Consultant/Distributor/Joint Venture Partner] conducts business on behalf of the Company. Specifically, [Agent/Consultant/Distributor/Joint Venture Partner] represents and warrants that it has not and will not, on behalf of the Company, directly or indirectly:
  - a. offer, promise, authorize or make a payment or give anything of value, including, but not limited to, any portion of the compensation received pursuant to this Agreement, any bribe, payoff, influence payment or kickback, to foreign public officials (including government and military officials and employees, executives and employees of a business owned or controlled by a government, officials and candidates of a foreign political party, and officials and employees of a public international organization such as the United Nations, World Bank or European Union) or to any person, whether for the benefit of a public official or otherwise:
    - i. for the purpose of (i) influencing any act or decision of such public official in his official capacity, (ii) inducing such public official to do or omit to do any act in violation of the lawful duty of such official, (iii) securing any improper advantage, (iv) inducing such public official to use his or her influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality, in obtaining or retaining business for or with, or directing business to, any person; or (v) performing a function or activity improperly, or to reward a person for the improper performance of such a function or activity; or
    - ii. where [Agent/Consultant/Distributor/Joint Venture Partner] knows or believes that the acceptance of the advantage would itself constitute the improper performance of a function or activity; or
  - b. request, agree to receive or accept a bribe from a third party, which prohibition shall include (but not be limited to): (i) agreeing to receive or accept a financial or other advantage intending that, in consequence, a function or activity should be performed improperly; (ii) agreeing to receive or accept a financial or other advantage where such request, agreement or acceptance itself constitutes the improper performance of a function or activity; (iii) agreeing to receive or accept a financial or other advantage as a reward for the improper performance of a function or activity; or (iv) in anticipation of or in consequence of a recipient or potential recipient requesting, agreeing to receive or accepting a financial or other advantage, a function or activity is performed improperly.
2. [Agent/Consultant/Distributor/Joint Venture Partner] shall not retain or appoint any sub-agent or representative to act on behalf of the Company, except as specifically provided in this Agreement and the Company’s anti-corruption compliance policy, and only with the prior written approval of the Company and provided that the sub-agent or representative agrees in writing to be bound by the provisions of this Agreement.

3. [Agent/Consultant/Distributor/Joint Venture Partner] agrees that it will not make any political contributions, charitable donations, or any other similar payments on behalf of the Company, without the prior written approval of the Company.
4. [Agent/Consultant/Distributor/Joint Venture Partner] will maintain its accounting books and records, with respect to all of its activities on behalf of the Company, in a manner consistent with generally recognized accounting principles in each jurisdiction where [Agent/Consultant/Distributor/Joint Venture Partner] conducts business for the Company. At a minimum, [Agent/Consultant/Distributor/Joint Venture Partner]'s accounting books and records shall be true, correct, complete, and accurate in all respects, and each item of income or expense shall be accurately described and reflected in the books of [Agent/Consultant/Distributor/Joint Venture Partner] with respect to its activities on behalf of the Company.
5. [Agent/Consultant/Distributor/Joint Venture Partner] will notify the Company's Compliance Officer, in writing and immediately upon discovery, of any known or suspected violation of the FCPA, the U.K. Bribery Act, or any other applicable anti-corruption law or regulation, the Company's anti-corruption policies and procedures, or the terms of this Agreement, including if the known or suspected violation is committed by [Agent/Consultant/Distributor/Joint Venture Partner] or any of its officers, employees, or agents in connection with the activities on behalf of the Company.
6. [Agent/Consultant/Distributor/Joint Venture Partner] agrees to allow the Company on a regular basis reasonable access to [Agent/Consultant/Distributor/Joint Venture Partner]'s books, records and other documents associated with its activities on behalf of the Company, for the Company's review and audit. [Agent/Consultant/Distributor/Joint Venture Partner] also agrees [it/he/she/they] will, as requested by the Company, prepare written reports subject to the Company's requested specifications and format.
7. A violation of the Company's anti-corruption policies or procedures, the FCPA, the U.K. Bribery Act, or any other comparable anti-corruption law or regulation applicable to [Agent/Consultant/Distributor/Joint Venture Partner] or any of its officers, employees and agents, shall constitute a material breach of this Agreement and shall give the Company the right to terminate this Agreement forthwith. [Agent/Consultant/Distributor/Joint Venture Partner] also acknowledges that any violation of these representations and warranties would be a material breach of [Agent/Consultant/Distributor/Joint Venture Partner]'s agreement with the Company, thus entitling the Company to terminate this Agreement forthwith.
8. [Agent/Consultant/Distributor/Joint Venture Partner] agrees to reimburse the Company for all payments of the Company's funds or assets made by [Agent/Consultant/Distributor/Joint Venture Partner] or any of its officers, employees and agents in violation of the FCPA, the U.K. Bribery Act, any other anti-corruption law or regulation applicable to [Agent/Consultant/Joint Venture Partner] or any of its officers, employees and agents, and the terms of this Agreement, as well as any resulting fines and penalties. To the extent [Agent/Consultant/Distributor/Joint Venture Partner] or any of its officers, employees and agents commits (or is suspected or accused of, or investigated for, committing) any violation of the FCPA, the U.K. Bribery Act, or any other applicable anti-corruption law or regulation, [Agent/Consultant/Distributor/Joint Venture Partner] will defend and indemnify the Company for all legal or other costs, expenses or any other liabilities incurred by the Company as a result thereof, as they come due, including the costs of any audit that identifies a violation of the FCPA, the U.K. Bribery Act or any other applicable anti-corruption law or regulation.
9. [Agent/Consultant/Distributor/Joint Venture Partner] will provide annual certifications on [date] of every subsequent year, confirming that [Agent/Consultant/Distributor/Joint Venture Partner] continues to understand and to comply with the FCPA, the U.K. Bribery Act, any other comparable anti-corruption law or regulation applicable to [Agent/Consultant/Distributor/Joint Venture Partner] or any of its officers, employees and agents, the terms and conditions of the Company's anti-corruption compliance policies and procedures, and the terms of this Agreement.
10. [Agent/Consultant/Distributor/Joint Venture Partner] agrees that it and all of its officers, employees and agents who will act on behalf of the Company, will participate in anti-corruption training provided, or approved, by the Company.

## APPENDIX B

### Sample Pre-Retention Due Diligence Inquiries for Agents/Consultants/Distributors/Joint Venture Partners, and Potential Acquisitions

Retaining agents, consultants, engaging distributors, forming joint venture relationships and acquiring entities create different compliance risks. The due diligence required in each business venture is not the same. The below sample pre-retention due diligence inquiries cover a broad range of anti-corruption principles not all of which are implicated in each agency, consultancy, distributor arrangement, joint venture relationship or acquisition. The list below provides options to ensure that the risk in each relationship is addressed. Decisions to not include certain inquiries listed below should only be made where addressing the potential anti-corruption non-compliance risk may be done without the information obtained by that inquiry. In other words, a sound business reason should be evident as to why the inquiry is not made.

1. In general, anti-corruption due diligence information concerning agents, consultants, joint venture partners, and potential acquisitions may be obtained by a variety of methods, including through a review of relevant documents, site visits to his/her/its/their place(s) of business, personnel interviews, and the use of due diligence questionnaires (a sample of which is contained in Appendix D).
2. The information obtained in the course of anti-corruption due diligence may include, where applicable (*see* Appendix D for a list of documents that may be requested to obtain this information):
  - a. Professional experience, relevant skills, qualifications and other credentials, as well as credit, residency, criminal record and civil litigation history;
  - b. Corporate structure and ownership;
  - c. Foreign government-issued permits and licenses;
  - d. The existence of any anti-corruption, anti-retaliation, or anti-money laundering policies or compliance programs, or code of conduct;
  - e. The citizenship and identities of principal and key employees, including whether any of them are current or former government officials;
  - f. Payment procedures, including rules for approval, cash and other methods of payment, transaction transparency and recording, reporting procedures, and payments to third-party intermediaries;
  - g. Accounting information concerning payments to foreign government officials and any third parties that interact with foreign government officials;
  - h. Auditing practices and procedures;
  - i. Business reputation, particularly with other companies that have had business relationships with the agent/consultant, joint venture partner, or potential acquisition;
  - j. The existence of any relationships between the agent/consultant or key personnel of a Joint Venture Partner or acquisition (or any of their family members) and foreign officials;
  - k. Lists of any consultants, agents, or third parties used as intermediaries;
  - l. The existence of any intersections between the agent/consultant's, joint venture partner's or acquisition's business and a foreign government (including state-owned and -controlled entities), such as through contracts and business dealings, security arrangements, import and export, permits and licenses, tax issues, local charitable and political involvement, or otherwise;

- m. Verification of material background information and representations provided;
  - n. Whether the fees or commissions charged the Company or the subsidiary are reasonable in light of the prevailing range of fees or commissions that are customary for the same or similar work within the industry or region; and
  - o. Verification that the contractually-designated bank account into which the Company or the subsidiary will deposit all commissions and other disbursements is held in the recipient's name or in the name of an entity known to be controlled by the recipient, and is either in a country in which a substantial portion of the recipient's services for the Company or the subsidiary will be performed or a country in which the recipient otherwise normally conducts business.
3. In the course of performing due diligence, potential "red flags" that give rise to any concerns about a propensity to violate Applicable Anti-Corruption Laws or to engage in other illegal or unethical activities may warrant particular scrutiny. The existence of a "red flag" does not automatically mean that the proposed business activity must cease. Rather, "red flags" provide a basis for further due diligence to ensure to the extent reasonably possible that by entering into the transaction with the existing explanation of the "red flag" the Company is not exposing itself to an unreasonable business and legal risk either as to that "red flag" or overall. Such red flags may include (where applicable):
- a. A dishonest reputation, *i.e.*, reportedly paid bribes in the past or known to treat such corrupt practices as a normal, customary or acceptable means of doing business;
  - b. Prior corruption investigations or allegations relating to business integrity or ethics;
  - c. Close familial connections to, or other personal relationships with, foreign officials;
  - d. Having been referred or suggested by a foreign official;
  - e. Business being conducted in cash, with the use of fake documents/invoices, or through bank accounts (including offshore accounts) or shell companies lacking transparency;
  - f. Commissions or fees which are outside the range of commissions or fees that are customary for the same or similar work within the industry or region;
  - g. Reluctance to sign contractual anti-corruption representations and warranties;
  - h. Requests to use a "side agreement," which is defined as a commitment, whether verbally, written or electronically transmitted (*e.g.*, e-mail), that was not part of the written master arrangement (whether executed before, simultaneously, or after the master agreement), and which materially modifies one or more terms of the master agreement;
  - i. Unwillingness or inability to produce financials for auditing, work product, reports, or other corroboration of work done;
  - j. The business takes place in a foreign country with a general reputation for bribery or public corruption. See [Transparency International Corruption Index at www.transparency.org/cpi2014/results](http://www.transparency.org/cpi2014/results);
  - k. Use of third-party representatives without conducting necessary and appropriate due diligence or using contractual anti-corruption representations and warranties;
  - l. Unusual, unreliable, suspicious or incomplete documentation concerning business or financial activities;

- m. Unusually or unnecessarily complex arrangements (including, for joint venture partners in funding capital contributions) that demonstrate a lack of transparency;
- n. Unusually or excessively generous or unjustified subcontracts;
- o. Excessive, false, misleading or poorly articulated payment requests;
- p. Requests for an advance payment;
- q. Absence of anti-corruption policies or compliance programs; and
- r. Misrepresentations or failures to cooperate in the due diligence process.



## APPENDIX C

### Sample Post-Retention Due Diligence Measures for Agents/Consultants/Distributors/Joint Venture Partners

Post-retention due diligence is an essential aspect of maintaining a proper business relationship guided by the Company's integrity commitment. As noted earlier, each agency or consultancy business relationship, a contractual relationship with a distributor or being involved in a joint venture presents the Company with different compliance risks in the anti-corruption area. Consequently, the points below are suggested mechanism through which the Company can reduce the risk of non-compliance in its business associations. Not every point noted below is required to be undertaken. A sound business decision not to pursue one of the measures noted below must exist to ensure that the compliance risk is not unreasonable:

1. Anti-corruption training at least every two years for above listed categories of business associates, with associated attendance logs and signed acknowledgement forms (which may be accomplished through on-line programs);
2. Completing a Certification every two years, certifying: (i) compliance with the Foreign Corrupt Practices Act ("FCPA"), the U.K. Bribery Act, and the Company's anti-corruption policy; (ii) no awareness of any undisclosed violations of the FCPA, the U.K. Bribery Act, or the Company's anti-corruption policy; (iii) the individual/entity has not made any payment, given any gift, or provided anything of value to a foreign official or the relative of a foreign official in connection with any projects or business of the Company or on behalf of or to benefit the Company, except those that have been approved in advance by the Company pursuant to the Payment Approval Procedure; and (iv) completion of the Company's FCPA and U.K. Bribery Act training program;
3. The Certification noted in 2, above, will be reviewed and, as necessary, confirmed by the Company executive or employee responsible for overseeing the agent/consultant/Joint Venture Partner;
4. Each year, requiring that the agent/consultant/Joint Venture Partner provide work product sufficient to demonstrate that they are performing the duties and providing the services they were contracted to perform;
5. Updates to the agent's/consultant's/Joint Venture Partner's background information at least once every three years;
6. At least once every three years, review by the Company's Compliance Officer and Internal Auditor of each agent's, consultant's, and Joint Venture Partner's master file, including (i) the Annual Certifications, (ii) the Annual Agent/Consultant/Joint Venture Partner Performance Review Forms, (iii) work product provided by the agent, consultant or Joint Venture Partner and (iv) updated Background Forms, to determine whether any red flags exist and, if so, to investigate the red flags and determine whether it is appropriate for the Company to continue to work with or renew or terminate existing agreements with, the relevant agent/consultant/Joint Venture Partner; and
7. The Audit Department, as part of its general audit function may both ensure that all the proper documentation is maintained in the agent's or consultant's master file, and also conduct a substantive review of that file, including an examination for potential red flags.

## APPENDIX D

### Suggested Due Diligence Request List & Questionnaire

Many of the items listed below more likely would be sought or questions posed in connection with the formation of a joint venture or an acquisition. To the extent the below items are germane to assessing the anti-compliance risk in hiring agents, consultants and engaging distributors they ought to be addressed. The lack of information provided, whether the agent, consultant or distributor (1) has it or not; or (2) declines to provide it or not, is but one factor in determining the risk of non-compliance with anti-corruption laws. Mere non-compliance with a request does not automatically mean that the business relationship may not be pursued. It means rather that further analysis of the impact of the lack of response must be undertaken to gauge reasonably the business and legal risks going forward. Sound business judgment must be applied to assess the risks in each relationship.

#### **I.Document Request List**

1. Documents identifying professional experience, skills, qualifications and credentials;
2. Documents identifying credit history, residency, criminal record, and civil litigation history;
3. Organizational chart, including management, finance, legal, compliance, ethics, marketing, sales and human resources;
4. Certificate of incorporation and any permits, licenses, or registration documents;
5. Documents showing legal ownership of any shares issued, including information concerning any ownership by a government-owned or -operated entity or government official;
6. Identification of key contacts/management personnel and their citizenship, including whether any of them are current or former government officials;
7. A list of other entities or individuals with whom the due diligence target has or had a business relationship;
8. A list of all third party agents used by the due diligence target;
9. Accounting records:
  - a. General Ledger data and financial statements;
  - b. Customer data, identifying any customers known to be government-owned or -controlled, and country location;
  - c. Vendor data, including a summary of disbursements (checks/wires/cash disbursement journals) and country of origin;
  - d. Listing of payments to third-party sponsors, agents, consultants, brokers, distributors, resellers, lawyers, government officials and other third-party government sales intermediaries;
  - e. Expense reimbursement data, including expenditures, if any, provided to government officials, gift logs, and employee expense reimbursements;
  - f. Data for all active bank accounts, including petty cash accounts;
  - g. A listing of all licenses and permits received/renewed from government authorities, including the amounts paid for each license/permit, any general ledger account, and the government authority responsive for administering the license/permit;

- h. A listing of all charitable and political contributions and any sponsorships, including the business purpose for making the contribution;
  - i. Electronic records of customer trading data, including customer orders, customer payments, and customer/warehouse receipts;
  - j. A listing of any warehouse inventory;
10. Policies and procedures:
- a. Internal accounting control and record keeping procedures;
  - b. Policies or procedures concerning approval processes for payments to third parties;
  - c. Policies or procedures concerning cash functions, including authorized check signors, access controls around check, stock and wire transfers, delegations of authority, and invoice approval processes;
  - d. Policies or procedures concerning petty cash functions, including employee cash advances through petty cash;
  - e. Policies or procedures concerning expense reimbursement;
  - f. Policies or procedures concerning gifts, meals, travel, entertainment, or other expenses for foreign government officials;
  - g. Policies or procedures concerning charitable and political contributions and sponsorships;
  - h. Policies or procedures concerning business relations with government entities;
  - i. Anti-bribery policy;
  - j. Whistleblower policy;
  - k. Code of conduct/Code of ethics;
  - l. Policy for internal and external audits;
  - m. Anti-money laundering (“AML”) compliance policy/program, including all supporting policies and procedures;
  - n. AML transaction monitoring procedures, including the system(s) used to detect unusual/suspicious activity, and any monitoring alert/rules library;
  - o. Economic sanctions policy;
  - p. Conflicts of interest policy; and
  - q. Policies related to the procurement process, third-party agent due diligence, and guidelines for hiring, retaining and terminating third party agents.

## **II. Anti-Corruption Questionnaire**

1. Where are your business operations?

2. List all government-owned or -controlled entities with which you do business.
3. To what extent do you (or your employees) interact with government officials or officials of government- owned or -operated entities?
4. Are you a current or former government official?
5. Do you hold any government-issued licenses?
6. Have you, or any business concern you owned, controlled, or were employed by, ever had any license, permit or certification denied, suspended or revoked by a governmental agency, or been cited for violations or disciplined by any board or authority?
7. Do you use any consultants, agents or other third parties who perform services for you that involve interactions with government agencies, including but not limited to customs, taxation, or licensing/permits?
8. Have you ever provided money, gifts, entertainment, travel expenses, or anything else of value to any government official?
9. Has any third party agent ever provided, on your behalf, money, gifts, entertainment, travel expenses, or anything else of value to any government official?
10. Have you ever been investigated by federal, state or local law enforcement officials for bribery or corruption conduct, or been involved in any stage of an administrative, investigative, or judicial enforcement action or proceeding related to alleged bribery conduct?
11. Have you engaged in business relations with any individual or entity that has been investigated by federal, state or local authorities for bribery or corruption conduct?
12. Have you, or any business that you owned or controlled, ever been charged with any crime or offense?
13. Are you or have you ever been affiliated with any professional associations, boards or advisory committees?
14. Are you or have you ever been affiliated with any political organization? If so, how?
15. Do you have an anti-bribery policy? What does it entail?
16. Do you require employees to certify compliance with the anti-bribery policy?
17. Do you conduct periodic audits of your anti-bribery policies and procedures?
18. Do you have a policy on gifts and entertainment expenses?
19. Do you have a policy on political and charitable contributions and donations?
20. Do you provide anti-bribery training and continuing education to sales representatives?
21. Do you have a record keeping policy that covers financial transactions related to sales contracts?
22. Do you conduct due diligence checks on agents, consultants, and other third parties?
23. Do you have internal reporting procedures, including personnel designated to receive and manage corruption reports and an anti-retaliation policy for whistleblowers?

## APPENDIX E

### Brazilian Anti-Corruption provisions

(See corresponding sections of Foreign Anti-Corruption Policy)

#### 2.3. Other Applicable Anti-Corruption Laws

- 2.3.1. Initially, under Brazilian law the conduct that is characterized as illegal may also trigger other liabilities (criminal, administrative, civil and tax). Corporate liability is normally limited to administrative, civil and tax areas, and any such liability is typically punished in the form of a pecuniary penalty. Legal entities are not liable for criminal penalties (with the exception of environmental crimes).
- 2.3.2. The Brazilian Criminal Code establishes liability for corruption and bribery acts in Brazil and indicates the crimes committed by public officials and individuals. A public official is an individual who, even if temporarily or without any kind of compensation, holds a position, employment or a function within a public entity or agency, or government-controlled company (public and private) or works for a company hired to provide services or perform activities germane to the public administration (“Public Official”).

In general, the Brazilian Criminal Code punishes the following conducts: (i) Extortion by a Public Official; (ii) Active bribery - any Public Official who directly or indirectly requests or receives an improper advantage/benefit, or accepts the promise of such an advantage for him/herself or others, even if this occurs outside the regular activities of such official’s position or delay any public act; (iii) Influence peddling - any individual who requests, requires, charges or obtains for him/herself or others an advantage/benefit or promise of advantage/ benefit, under the pretext of influencing an act committed by a Public Official in the exercise of his/her function; and (iv) Passive bribery - any individual who offers or promises an improper advantage/benefit to a Public Official to persuade the latter to perform, omit or delay any official act.

The penalties for the abovementioned crimes both for the Public Official and the individual/corruptor - vary from a minimum of two (2) years to a maximum of twelve (12) years of imprisonment plus, payment of a fine.

The term improper advantage/benefit is not defined under Brazilian Law, but by local scholars, who define it as every contribution that improves the personal situation of the recipient, whether of a material or immaterial nature - such as money or a career improvement, respectively. Such improper advantage/benefit can be anything that the Public Official believes that is a personal gain, including sexual favors.

- 2.3.3. The Public Procurement Law establishes criminal liability for specific acts of corruption committed during a public tender procedure or during the performance of a contract between a private company and a government party - such as bid rigging and amendment of the contract to benefit the private party without good cause. The penalties imposed by such law vary from a minimum of six (6) months to a maximum of four (4) years of imprisonment, plus fine.

The Public Procurement Law imposes the additional following civil and administrative

penalties: (i) Notice/warning; (ii) Civil fine; (iii) Termination/early termination of the contract; (iv) Temporary prohibition from participating in public tenders and from entering into public contracts (up to two years); and (v) prohibition from participating in public tenders and entering into public contracts. Given the magnitude of the penalties that may be applied to a body corporate, the damage caused by wrongful conduct on the part of company representatives has the potential to cause a company to go bankrupt.

- 2.3.4. The Anti-Corruption Law establishes corporate civil and administrative liability for acts involving members of the Brazilian or foreign public administrations/governments. Such law defines the following conducts as creating liability: (i) promise, offer or give, directly or indirectly, an improper advantage/benefit to a Public Official, or the third party related thereto; (ii) financing, sponsoring, or otherwise subsidizing the practice of the unlawful acts provided for in this Law; (iii) use of individual or legal entity to conceal or disguise their real interests or the identity of the beneficiaries of the acts practiced; (iv) Bid rigging and fraud in public procurement; (v) obstruct the activity of investigation or inspection of organs, entities or Public Officials, or intervene in its activities, including within the scope of regulatory agencies and supervisory bodies of the national financial system

The Brazilian Anti-Corruption Law considers “foreign public administration” the state organs and entities or diplomatic representations of foreign countries, of any level or sphere of government, as well as legal entities controlled, directly or indirectly, by the government of a foreign country. It also likens foreign public administration with foreign public organizations.

The law considers foreign public employees those who, even temporarily or without compensation, hold a position, job or public function in structures, state entities or in diplomatic representations of a foreign country, as well as in legal entities controlled, directly or indirectly, by the public authority of the country or in international public organizations.

The Brazilian Anti-Corruption Law establishes strict liability offence for corporate entities, companies and associations, including non-corporate bodies as well as for public entities that carry out a commercial activity, which fail to prevent bribery and other crimes committed by their officers and board members and other management positions, employees or third parties, in the interest/advantage of such entity. Companies in breach of anti-corruption and anti-bribery provisions are subject to penalties, some of which are imposed through administrative proceedings.

Companies may be held liable if an individual acting on behalf of this entity commits one of the abovementioned infractions. If a company’s employee, officer or representative, bribes a Public Official in order to win a tender or to achieve any kind of goal, the acts of such individual are interpreted by local law as being reflective of the will of the company. The individual (employee, officer or representative of the company) will be held criminally liable and the company will be held liable for civil and administrative penalties.

The administrative penalties set forth in the Anti-Corruption Law include fines and publication of the decision against the company in the local media and are imposed at the end of an administrative proceeding. The penalties are (i) a fine of 0.1% to 20% of the gross sales of the last fiscal year prior to the filing of the proceeding, excluding the respective taxes, after calculation of the penalties or (ii) if it is not possible to use such criteria a fine between six (6) thousand and sixty (60) million Brazilian reais. Note that the fine will never be less than the advantage/benefit obtained by the individual or/and the company which offended such rules.

The publication of the decision against the company must be made in a media of mass circulation in the area where the infraction was committed and of the legal entity is headquartered, or in media of national circulation, always at the expense of the legal entity charged with the wrongdoing. In addition, the entity penalized must display a public notice in its place of activity (main establishment), as well as in its website, with the content of the decision against the company, in each case for a minimum period of 30 (thirty) days.

The Brazilian Anti-Corruption Law further determines that the criteria for applying the abovementioned penalties will depend on the following evaluations: (i) severity of the infraction; (ii) advantage/benefit obtained and/or the damage occurred; (iii) whether it was an attempted crime or the actual commission of a crime; (iv) economic situation of the offender (company and/or individual); (v) types of contracts with public sector (government); (vi) collaboration of the legal entity in the determination of infractions, (vii) whether there are integrity mechanisms in place at the company (*i.e.* anticorruption and antibribery policies). The evaluation parameters of the integrity mechanisms in the company were defined in Decree No. 8,420/2015.

In addition to the administrative penalties (fine and publication of the decision in the media), the Anti-Corruption Law lists the following penalties imposable only at the end of the administrative proceeding, once due process has been allowed:

- a) confiscation of assets, rights or values representing an advantage/benefit or profit directly or indirectly obtained by an infraction;
- b) suspension or partial shutdown of the company's activities;
- c) compulsory dissolution of the company; and
- d) prohibition from receiving incentives, subsidies, grants, donations or loans from public bodies or entities and from public financial institutions or publicly controlled institutions, for a period that ranges from one (1) to five (5) years.

2.3.5. Furthermore, Brazilian law establishes punishment to anyone who hides or disguises the nature, origin, location, disposition, movement or ownership of assets, rights or money arising, directly or indirectly, from a criminal offense (money laundering and any other kind of assets). The penalties range between three (3) and ten (10) years of imprisonment, plus the payment of a fine.

2.3.6. The determination as to whether a particular crime has been committed by a public official does not depend on the value of the benefit involved, thus, the crimes of bribery/corruption are considered as having been committed even if the public official receives a benefit of very small value.

2.3.7. Finally, Brazilian law does not punish the so called "private bribery" as it exists in the UK Bribery Law; however, local law creates liability for certain situations that are similar to a "private bribery" when it establishes punishment for crimes that cover conducts related to a private bribery, as (i) fraud, defined as obtaining, for him/herself or for others, an improper advantage/benefit, causing harm to others, by inducing or keeping someone in error by means of trickery or any other fraudulent means; and (ii) extortion, defined as forcing someone, through violence or serious physical or psychological threat, and with the purpose of obtaining for themselves or for others, an improper economic advantage/benefit, to do, to tolerate doing or not doing something.

- 4.4 Not Applicable
- 5.6 Not applicable

## APPENDIX F

### French Anti-Corruption Provisions

(See corresponding sections of Foreign Anti-Corruption Policy)

#### 2.3. Other Applicable Anti-Corruption Laws

##### I. General overview

French Criminal Code prohibits active corruption (referring to giving and offering a bribe) and passive corruption (referring to soliciting and accepting a bribe). This prohibition covers corruption both in public and private sectors and further applies to domestic (i.e. French) and foreign public officials.

French law also prohibits influence peddling (active and passive, private and public both as regards domestic and foreign public officials).

The main difference between the offences of corruption and influence peddling lies in the direct or indirect nature of the corruptive practices, insofar as influence peddling, differently of corruption, necessarily entails the use of a third party (that can be either a public official or a private person).

##### II. Laws

Under the French Criminal Code the term "*domestic public official*" refers to a person vested with public authority or discharging a public service mission or vested with a public electoral mandate.

The term "*vested with public authority*" includes, but is not limited to, state or local administration representatives, civil servants, law-enforcement officials, public or ministerial officials or any person holding position of administrative authority.

The term "*discharging a public service mission*" refers to a person who, without holding decision-making or coercive powers from a public authority, exercises a public service mission of general interest.

The term "*vested with a public electoral mandate*" refers notably to members of Parliament and local elected officials.

Under the French Criminal Code the term "*foreign official*" means an officer or employee of a foreign country (i.e. other than France) or a public international organization.

Domestic and foreign public officials that are part of the judiciary or take part to the dispute resolution activity are explicitly listed in specific sections of the French Criminal Code regarding corruption of members of the judiciary.

- 2.3.1 Passive corruption occurs when a domestic or foreign public official or private actor unlawfully solicits or accepts a bribe either directly or indirectly. Active corruption occurs when any person either directly or indirectly unlawfully induces, or attempts to induce, a domestic or foreign public official or private actor to accept a bribe.

Article 433-1 (1°) of the French Criminal Code defines the offence of active corruption of domestic public officials. The factual elements for the offence are as follows:

- **any person making or accepting to make**, without right, directly or indirectly,



**offers**, promises, donations, gifts or any kind of advantages to a domestic public official (whether to the benefit of such public official or to the benefit of another person),

- **to induce such a domestic public official to carry out or not to carry out** or alternatively to reward such a public official for having carried out or for not having carried out **an act of his or her occupation**, position or office, or facilitated by such occupation, position or office.

Article 435-3 of the French Criminal Code defines the offence of active corruption of foreign public officials in similar terms as above, with the exception that the person receiving the undue advantage (or promise thereof) must be a foreign public official, *i.e.* a public official in a foreign country or in a public international organization. In the above cases, also the public official who accepts or solicits the undue advantage constitutes a criminal offence.

Article 445-1 of the French Criminal Code defines the offence of active corruption in private sector as follows:

- **any person making or accepting to make** without right, directly or indirectly, **offers**, promises, donations, gifts, presents or any other advantage, to such person (whether to the benefit of such person or to the benefit of another person);
- **to induce such person**, who is not a public official and who, within his/her professional/social activity, has a management position or works for any person or organization;
- **to carry out or not carry out** (or for having carried out or not carried out) **an act of his/her activity** or occupation, or facilitated by such activity or occupation, in violation of such person's legal, contractual or professional obligations.

Article 445-2 of the French Criminal Code defines passive bribery in private sector in the same conditions as above, except that in case of passive bribery the offender, who is a private person, solicits or accepts the undue advantage.

- 2.3.2 Articles 433-1 (2°) and 435-4 of the French Criminal Code define the offence of active influence peddling as proffering unlawfully, at any time, directly or indirectly, any offer, promise, donation, gift, present or any other advantage to induce a recipient to abuse his real or alleged influence with a view to obtaining distinctions, employment, contracts or any other favorable decision from a public authority or the government. Under article 433-1 refers to influence peddling of domestic and foreign public officials whereas under article 435-4 of the French Criminal Code the person abusing of his/her powers is a private party. Article 435-2 further sanctions passive influence peddling by private parties.
- 2.3.3 A mere proposal or solicitation of an undue advantage in the above conditions constitutes an offence of corruption/influence peddling according to the case. In other words, it is not necessary that the person soliciting the undue advantage effectively acted in the expected way or that the advantage was effectively received. As a general principle, the corrupt intent must be shown. However, this requisite condition of consciousness has in certain cases been deducted from the facts surrounding the factual scenario.
- 2.3.4 Individuals and corporations may be prosecuted for the above described passive and active corruption offences and may be subject to the following fines and prison sentences: Active and passive corruption of domestic and foreign officials: ten years' imprisonment and a fine up to EUR 1,000,000 or twice the proceeds of crime stemming from the offence. Corporate entities: a fine up to 5 times the fine applicable to individuals.. Active and passive bribery of a private person is punishable by five years' imprisonment and a fine of up to EUR 500,000. Corporate entities: a fine

2.3.5 up to 5 times the fine applicable to individuals.

Individuals and corporations may be prosecuted for the above described passive and active influence peddling offences and may be subject to the following fines and prison sentences: Active and passive influence peddling of domestic and foreign officials: ten years' imprisonment and a fine up to EUR 1,000,000 or twice the proceeds of crime stemming from the offence. Corporate entities: a fine up to 5 times the fine applicable to individuals. Where the influence peddling involves only private parties the relevant sanctions are a fine up to EUR 500,000 or twice the proceeds of crime stemming from the offence. Corporate entities: a fine up to 5 times the fine applicable to individuals.

In all of the above cases additional ancillary sanctions can be decided against corporations and individuals. For corporations these may include, notably, the requirement to adopt a compliance program and also other very stringent sanctions that have immediate and possibly grave consequences for the corporation and which can include, among other, closing down of the establishment within which the offence was committed and exclusion from public procurement.

- 4.2** French law does not provide an exception for facilitation payments which are illegal and constitute bribes under the applicable French provisions.
- 4.4.** There are no statutory thresholds or official guidance stating a monetary criteria or threshold for acceptable advantages (whether gifts, travel expenses, accommodation, or any other advantages). Furthermore, it can be noted based on the available case law that the value of the undue advantage promised or granted varied greatly from one prosecution to another - ranging from a few hundred euros to millions of euros. As a consequence, any advantage, whatever its value, could be deemed to constitute a bribe if considered to have been granted with corrupt intent. The conditions set out in the above sections apply, but as a general rule, all advantages - and in particular gifts - to domestic or foreign public officials should remain exceptional and must in any case be subject to a thorough review, assessment and approval before being granted. Finally, many French administrations have adopted specific internal rules that define the only advantages that can be accepted, and compliance with such rules must always be verified before extending any benefits to public officials.
- 5.6** Under French law, this section shall apply to all public officials and not just to foreign ones.

## APPENDIX G

### German Anti-Corruption provisions

(See corresponding sections of Foreign Anti-Corruption Policy)

#### 2.3. Other Applicable Anti-Corruption Laws

In general German criminal law punishes a person who offers, promises or grants a benefit (“**bribe**”) to an employee or agent of a company, to a public official or someone entrusted with public service functions, delegates, to a member of a health care profession or to an athlete, coach or similar persons or referee (“**person in a specific function**”) if certain conditions are met. Inversely a person in a specific function, who demands, allows himself to be promised or accepts a benefit is also punished. In the following we will only elaborate on offering, promising or granting a benefit. The benefit must not be granted to the person in a specific function himself. It is sufficient that the benefit is granted to a third party.

The term benefit is not defined in the German Criminal Code (*StGB*). Broadly speaking a benefit is every contribution that improves the personal situation of the recipient. It does not matter if the benefit is material (e.g. money) or immaterial (e.g. better career perspectives) as long as the recipient has no claim regarding the benefit. Further there has to be a reprehensible agreement between the granting party and the person in a specific function that the benefit is granted due to an intended act or omission. In the case of a public official a reprehensible agreement is not needed in the same extent. To be seen as a bribe it is sufficient that there is an agreement that the benefit is granted due to the exercise of the public official’s service in general.

As a rough overview German law differentiates between five sorts of bribes. It is prohibited to bribe a delegate, bribe in commercial practice, bribe a public official, bribe a member of a health care profession, and bribe in sports. In all cases these offences are punishable with a fine or imprisonment. Further there is the risk of an administrative fine or confiscation order against the company if an employee violated anti-corruption law.

- 2.3.1 It is punishable to bribe a delegate (this includes but is not limited to members of the European or German federal parliament but also applies to members of the state parliaments and even members of the city council; members of a foreign legislative body are included as well). A benefit can be justified if it is adequate (e.g. if accepting the benefit is compliant with the regulations regarding the specific position of the delegate). For the bribe to be punishable - if the benefit is unjustified - the bribe has to be made in relation to a specific action or omission of the delegate in execution of their mandate. It is not necessary that a specific date or vote already has been set. It suffices if the bribe is made to influence the delegate in a certain way while executing the mandate in the future.
- 2.3.2 It is also punishable to bribe an employee or agent of a business if it is in connection with a business transaction and the bribe is made as a consideration for according an unfair preference in the competitive purchase of goods or commercial services (both in domestic and foreign competition). It is also punishable if the bribe is made to an employee or agent of a business without approval of the business (owner) for carrying out or omitting an action in the purchase of goods or commercial services and if the employee or agent of a business thereby violates official duties to the company. The bribe has to be made in relation to a specific act or omission in the future.
- 2.3.3. It is also forbidden to bribe a public official (including but not limited to officials of the European Union) as well as persons entrusted with special public service functions (e.g. employees of a state-owned company), soldiers, judges or arbitrators. In all cases it is irrelevant if the bribe is made to a domestic or foreign person. The bribe has to be made in relation to the performance of a service but it is not necessary that the reprehensible agreement is made for a specific act. The German law is very strict in this regard because it is supposed to prevent the appearance of corruption in the

- 2.3.4. public sector. If the benefit is not granted for an unlawful public service of the public official and approved by the competent authority granting such a benefit might be allowed.
- 2.3.5. It is also punishable to bribe a member of a health care profession if it is in connection with a professional practice and the bribe is made as a consideration for according an unfair preference in the prescription or obtaining of pharmaceuticals, remedies, adjuvants, medical devices or the referral of patients or examination material (both in domestic and foreign competition). A member of a health care profession is someone who has received an academic or non-academic state-regulated training for the exercise of the profession or to carry a professional title (e.g. Doctors, dentists, pharmacists or nurses). The bribe has to be made in relation to a specific act or omission in the future.
- 2.3.6. It is also forbidden to bribe athletes, coaches or referees. A distinction is made between sports betting fraud and manipulation of professional sports competitions. In both cases the bribe has to be made in relation to a specific act or omission in the future.
- For fulfillment of a sports betting fraud the bribe to an athlete, a coach (or persons with a similar influence on athletes) or a referee has to be made in order to that the bribed person influences the course or result of an Organized Sports Competition (a competition organized by a national or international sports organization whose official rules must be complied with) in favor of their opponents (athlete and coaches) / in an irregular manner (referees). Furthermore, the bribe has to be made in order to that, as a result, an illegal pecuniary advantage is obtained through a public sports bet related to that competition.
  - For fulfillment of a manipulation of professional sports competitions the bribe to an athlete, a coach (or persons with a similar influence on athletes) or a referee has to be made in order to that bribed person influences the course or result of a professional-sports competition in an anti-competitive manner in favor of their opponents / in an irregular manner.
- 4.4.** There is no exception for facilitation payments to domestic public officials within German criminal law. Facilitation payments to foreign public officials (with the exception of officials of the European Union) might not be seen as a bribe depending on the circumstances. Further the principles laid out in 4.1. and 4.3. can be transferred to German criminal law with the exception that these principles have to be observed not only when dealing with foreign officials but as well when dealing with any delegate, employee or agent of a business as well as the persons described in 2.3.3..
- 5.6** In addition to the principles laid out above expenditures to the benefit of persons that are mentioned in 2.3.3. can be approved by the competent authority in advance or upon prompt report by the recipient.

## APPENDIX H

### Italian Anti-Corruption Provisions

(See corresponding sections of Foreign Anti-Corruption Policy)

#### 2.3. Other Applicable Anti-Corruption Laws

- 2.3.1. Italian law punishes the public official who: (i) receives for himself/herself or for the benefit of others, money or other advantages, or accepts a promise thereof, to perform his/her own duties or exercising his/her own powers; (ii) receives compensation for himself/herself or for others, in the form of cash or other non-eligible advantages, in order to perform or to have performed an act that goes against his/her official duties, or to omit or delay an act by his/her own office; (iii) by means of his/her influence, abuses his/her own position inducing someone to give or promise money or other undue advantages.
- 2.3.2. The corruptor is also subject to penalties under Italian law. Bribery is, in fact, considered a "criminal agreement" between the Public Official and the corruptor, because both of them obtain advantages from it.
- 2.3.3. In each case, the offense is considered as committed only if the promise of money or other benefit is accepted by the public official. Otherwise, the criminal offense is "instigation to commit corruption".
- 2.3.4. The penalties for the abovementioned crimes, for both the public official and the corruptor, may vary from a minimum of one year to a maximum of twenty years of imprisonment.
- 2.3.5. In addition, the Italian law also punishes "private bribery". This crime punishes: (i) all directors or other apical positions - even through a third party - who request or receive, for themselves or for the benefit of others, money or other advantages, or accept a promise thereof, in order to commit or omit an act in violation of their official duties or duty to be loyal; (ii) anyone who, in his/her quality of a subordinate of the individuals indicated in point (i), commits the same fact as described above; (iii) anyone - even through a third party - who offers or promises money or other advantages to the subjects indicated in points (i) and (ii).
- 2.3.6. The Italian law also punishes the "instigation to commit private bribery" in any case that the request, the offer or the promise of money are not accepted. The possible penalties for this offence may vary from a minimum of one year to a maximum of six years of imprisonment.
- 2.3.7. Furthermore, for all these crimes, provisions do not contemplate any monetary criteria or thresholds of value for the benefits given to public officials. Therefore, the crimes of bribery/corruption are considered as committed even if the public official receives a benefit of very small value. This means, on the other hand, that for the corruptor even a very small amount of money or a benefit of small value could be considered as a bribe and therefore lead to the criminal responsibility. In this regard, the prevailing case law states that criminal responsibility can be excluded only when the benefit is manifestly disproportionate to the act that the public official should or has carried out and therefore

non-influent to his/her action.

2.3.8. Italian law also establishes strict liability offence for corporate entities, companies and associations, including non-corporate bodies as well as for public entities which carry out a commercial activity, that fail to prevent bribery and other crimes committed by their managing directors and other apical positions, employees or third parties, in the interest/advantage of the entity.

**4.4.** The provisions of the Italian law do not contemplate any monetary or value thresholds for benefits given to public officials.

Furthermore, there is no exception for facilitation payments and even a very small amount of money or a benefit of small value could be considered as a bribe and lead to criminal responsibility of the corruptor.

Nevertheless, some monetary thresholds for benefits that can be granted to public officials are laid down by certain sectorial/non-criminal regulations.

For instance, article 4 of the "*Code of conduct of public employees*" regulates the receipt of gifts and benefits by public employees. It states that public employees must not request or solicit gifts or benefits and they are forbidden to receive any benefit, even of small value, in the event that they be given as compensation by those who have interests with their duties. public employees can only accept occasional gifts/benefits of small value. In fact, according to paragraph 5, article 4 of the Code, the value of a benefit is considered "small" when it does not exceed EUR 150, considering that the codes of conduct of single public administrations may provide even for lower thresholds.

However, it must be underlined that the monetary or value thresholds provided by sectorial/non-criminal regulations, do not automatically exclude criminal responsibility for the crimes of bribery/corruption.

**5.6.** Under the Italian law, this section shall apply to all public officials and not just to foreign ones. For instance, to domestic customs police, local police and even to traffic wardens.

## APPENDIX I

### Mexican Anti-Corruption provisions

(See corresponding sections of Foreign Anti-Corruption Policy)

#### 2.3. Other Applicable Anti-Corruption Laws

##### 2.3.1 General Administrative Responsibilities Act

Derived from a series of constitutional reforms in 2015, as well as the creation and reform of several laws in 2016, México created the institutional framework necessary for the operation of a National Anti-Corruption System.

Amongst these new laws, the General Administrative Responsibilities Act (*Ley General de Responsabilidades Administrativas* – “LGRA”) was enacted, same that establishes administrative liabilities, obligations and sanctions for the commission of acts of corruption and other related conducts, for both public and private entities.

For private entities and individuals, LGRA sanctions the commission of “major offenses”, same that include: **bribery, illegal participation in public bids, influence peddling, use of false or altered information, collusion, unlawful use of public resources and illegal hiring of former governmental officials.**

According to the LGRA any individual who promises, offers or delivers any undue benefit to one or more public officials, directly or by means of a third party, in exchange for said public official to carry out, or refrain from carrying out, an activity related to their public functions, or that of other public official, or to abuse their real or supposed influence, in order to obtain or maintain an undue benefit, for itself or a third party, independently of the acceptance or reception of the benefit or result, will be liable for **bribery**.

Possible administrative sanctions for major offenses include:

- a. Fines.
- b. Temporary disqualification to participate in acquisitions, leasing, services or public works from three months and up to ten years.
- c. Indemnity for damages and lost profits to the public treasury.
- d. Penalties exclusively for corporate entities: suspension of all activities from three months up to three years; and dissolution and liquidation of the entity in particularly grave cases.

In terms of the LGRA, when determining the responsibility of a private entity for major offences, the judge shall take into consideration if the company has an integrity policy in place. This policy shall have at least the following elements:

- a. Organizational manual delineating functions and responsibilities of each area and specifying the different chains of command within the structure.
- b. A code of conduct dully publicized and socialized amongst all members of the organization with real systems and mechanisms for application.
- c. Adequate systems for control, vigilance and audit, examining the compliance with integrity standards throughout the organizations, from time to time.
- d. Adequate internal and external reporting systems, as well as disciplinary processes and concrete consequences for sanctioning conducts contrary to internal norms and national legislation.
- e. Training systems and processes in matters of anticorruption and compliance.
- f. Human resources policies to reduce the risk of unlawful conducts.
- g. Mechanisms to assure transparency and publicity of the interests of the company.

### 2.3.2 Federal Criminal Code

Title Ten of the Federal Criminal Code (*Código Penal Federal* – “FCC”) refers to “crimes by acts of corruption”, which mainly apply to public officers; notwithstanding certain provisions applicable to individuals should not be overlooked.

In terms of the FCC, an individual acting as a governmental contractor may be sanctioned with up to nine years in prison if it **generates or uses false or altered information** in relation to its benefits and/or performance, or hides said information from authorities.

In addition, FCC also sanctions **influence peddling** with up to six years of imprisonment, to any individual who is not legally authorized to participate in a public business, but claims to have influence over the decision makers and offers said influence in exchange of obtaining a benefit for himself and/or a third party.

Furthermore, FCC sanctions **bribery of national and/or foreign officials**, with up to fourteen years of imprisonment. In serious cases, the judge may also declare the temporary suspension or the dissolution of a company, considering the degree of knowledge and/or involvement of the administrative organs of the company, the damages caused, and the benefits obtained.

The definitions of **national and foreign officials** are broadly defined to include any individual working for government, public trusts, State productive entities, constitutionally autonomous organs, Congress, Judiciary, and/or anyone who handles federal resources. For foreign officials, the FCC also includes in its definition agents of international organizations.

- 4.4. There is no exception for facilitation payments to public officials within Mexican law nor any monetary or value thresholds for gifts or benefits given to public officials. Even though certain low-value gifts may be deemed as customary, at this time, and until further development of LGRA in practice, it is best to avoid gifts to public officials
- 5.6 Under Mexican law, this section shall apply to all public officials, including national public officials.



## APPENDIX J

### Philippine Anti-Corruption Provisions

(See corresponding sections of Foreign Anti-Corruption Policy)

#### 2.3. Other Applicable Anti-Corruption Laws

Philippine anti-corruption and anti-bribery laws generally prohibit giving gifts or anything of value to Philippine public officers. Facilitation payments are prohibited under Philippine anti-corruption and anti-bribery laws.

The Philippine Revised Penal Code penalizes Direct Bribery and Indirect Bribery. Direct Bribery is committed by a public officer who receives a gift, directly or indirectly, with a view to (a) committing a crime or an unjust act; or (b) refraining from doing his official duty. Indirect bribery is committed by a public officer who accepts a gift given to him by reason of his office. The person who gives the gift to the public officer under these circumstances is liable for the crime of Corruption of Public Officials.

Presidential Decree No. 46 (Giving of Gifts on any Occasion) punishes the act of giving a gift to a public officer on any occasion, including Christmas, when such gift is given by reason of the public officer's position.

Republic Act No. 6713 (The Code of Conduct and Ethical Standards for Public Officials and Employees) prohibits a public officer from soliciting or accepting, directly or indirectly, a gift from any person (a) in the course of his official duties; or (b) in connection with any operation or transaction being regulated by his office.

Republic Act No. 3019 (The Anti-Graft and Corrupt Practices Act), prohibits, among others, giving a gift to a public officer (a) in connection with a government contract or transaction where the public officer is required to intervene; or (b) in exchange for help in obtaining a government permit or license.

#### 4.4. Permissible Expenditures in the Philippines

Considering the broad provisions of the Philippine anti-bribery and anti-corruption laws, it is not recommended to give gifts or anything of value to Philippine public officers.

Some anti-corruption laws provide exceptions for permissible gifts to public officers (i.e., Republic Act No. 6713 and Republic Act No. 3019), such as unsolicited gifts of small or insignificant value which are (a) not given in exchange for a favor; (b) given after the transaction is completed; or (c) given as an ordinary token of gratitude or friendship according to local customs. As to what is a gift of nominal value will depend on the circumstances of each case taking into account the salary of the public officer, the frequency of the giving, the expectation of benefits, and other similar factors. Note, however, that these exceptions are not recognized under the other anti-corruption laws, and may not be invoked as a defense in a prosecution under such laws.

A gift should not be given directly to a public officer, but must be directed to the government, agency, department, instrumentality, or entity that employs the public officer. **In all such circumstances, prior written approval from the Compliance Officer must be obtained in accordance with Section 5.**

#### 5.6. Not Applicable

## APPENDIX K

### Polish Anti-Corruption Provisions

(See corresponding sections of Foreign Anti-Corruption Policy)

#### **2.3. Other Applicable Anti-Corruption Laws**

The Polish Criminal Code ("PCC") is the basic act of law which deals with corruption. The PCC is the broadest legal framework for bribery/corruption cases.

Bribery of public officials is prohibited under PCC.

Under the PCC it is not only prohibited to bribe the public officials but it is also prohibited to offer and accept a bribe in a private sector. According to PCC, under specific circumstances, it is prohibited to offer any kind of benefit to individuals carrying positions in company or in other private organizations. Moreover, it is prohibited to accept such benefit by individual carrying position in company or in other private organization.

Under Polish law any kind of benefit can be treated as a bribe. The benefit can be a material (i.e. a car) or a personal (i.e. promotion) advantage. It can be given directly to public official, as well as indirectly to the third person for example family member of a public official.

The benefit is everything which brought any advantage to the recipient. Benefit includes current and future advantage. It might be given in form of a loan, covering debt, discount, business travel (in particular business class flights, accommodation in a luxury hotel accompanied by spouses unrelated with business relationship), a donation to charity, support in obtaining work (i.e. for family members/friends). It is also forbidden to submit promises to provide benefits in exchange for certain action of a public official.

- 4.4.** According to Polish law it is not admissible to offer a public official any kind of advantage aimed to attract his more favorable stance. Any act of bribery may result in criminal liability. However, any kind of polite behavior is admissible and excluded outside the scope of the term "benefit". Such behavior is also permitted on special occasions when gifting is customary and to do otherwise may be deemed inappropriate (e.g. Christmas, names day etc.). The provision of those exceptions should be extended to the family or friends of the public official. In general an admissible form of a gift would be items of limited value, such as flowers, chocolates, calendars or pens (i.e. you could offer a pen, but not a pen with a diamond).
- 5.6.** According to Polish law, there is no specific obligation to inform the entity employing the public official about approved payments that he/she has received.