

**ABA MODEL BUSINESS AND SUPPLIER POLICIES ON LABOR  
TRAFFICKING AND CHILD LABOR  
FEBRUARY 2014\***

**TABLE OF CONTENTS**

**PART I..... INTRODUCTION**  
**PART II..... MODEL PRINCIPLES**  
**PART III..... MODEL BUSINESS POLICY**  
**PART IV..... MODEL SUPPLIER POLICY**  
**PART V..... MODEL GLOSSARY**  
**PART VI.....ENDNOTES**

**PART I. INTRODUCTION**

(Please see the Glossary for an explanation of the capitalized terms used throughout this Introduction)

These Model Business and Supplier Policies address two specific human rights issues that potentially arise in the Operations of a business enterprise: Labor Trafficking and Child Labor.

The UN Guiding Principles on Business and Human Rights (Guiding Principles) are the globally recognized guidelines on the roles of States and business enterprises in addressing human rights issues.<sup>i</sup> The Guiding Principles are grounded in the recognition that (1) States have existing obligations to respect, protect and fulfill human rights and fundamental freedoms; (2) business enterprises, including suppliers, are required to comply with all applicable laws and respect human rights; and (3) there is a need for rights and obligations to be matched to appropriate and effective remedies when breached.<sup>ii</sup>

The International Labour Organization (ILO) estimates that 20.9 million men, women and children are subject to forced labor around the world,<sup>iii</sup> with 68% (14 million) involved in forced labor exploitation in economic activities, such as agriculture, construction, domestic work or manufacturing.<sup>iv</sup> 22% (4.5 million) are involved in forced sexual exploitation, and 10% are involved in State-imposed forced labor.<sup>v</sup> On child labor, the ILO reports that the number of children in situations of child labor has declined by one-third since 2000, but still stands at 168 million, with 60% (98 million) found in agriculture and more than half (85 million) involved in hazardous work.<sup>vi</sup> Despite the positive trend, 168 million children is more than ½ of the entire population of the United States. As former UN Secretary-General Kofi Anan stated about Child Labor, “[f]ew human rights abuses are so widely condemned, yet so widely practiced.”<sup>vii</sup>

---

***\*NOTE: Only the Model Principles portion (Part II only) of the ABA Model Business and Supplier Policies on Labor Trafficking and Child Labor constitutes official ABA policy. The remaining portions (Parts I and III-VI) are being provided for background and informational purposes only.***

Consequently, Labor Trafficking and Child Labor increasingly have become—or are becoming—the subject of laws criminalizing such conduct, imposing civil liability based upon

that conduct, and requiring public disclosure of efforts taken to address Labor Trafficking and Child Labor.<sup>viii</sup> In addition, ethical principles related to business enterprises are recognized in the Guiding Principles when they state:

The responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate. It exists independently of States' abilities and/or willingness to fulfill their own human rights obligations, and does not diminish those obligations. And it exists over and above compliance with national laws and regulations protecting human rights. Addressing adverse human rights impacts requires taking adequate measures for their prevention, mitigation and, where appropriate, remediation. Business enterprises may undertake other commitments or activities to support and promote human rights, which may contribute to the enjoyment of rights. But this does not offset a failure to respect human rights throughout their operations.<sup>ix</sup>

Therefore, business enterprises around the world have recognized the importance of addressing Labor Trafficking and Child Labor in their Operations. Toward that end, the American Bar Association (ABA), through its Business Law Section and its Task Force on Human Trafficking, offer the following Model Business and Supplier Policies for business enterprises to use as guidelines for review of their own policies and practices.

The Model Policies adopt a risk-based approach to ensure that measures to address issues of Labor Trafficking and Child Labor are commensurate with the risks identified, so that the sources of the greatest risk receive the most attention, thereby facilitating efficient allocation of resources. The business enterprises that adopt and implement a form of these Model Policies should identify general areas where the risk of Labor Trafficking or Child Labor is more significant so they can prioritize those for greater Due Diligence, Monitoring, Verification or appropriate action under a given Model Policy.

This approach is facilitated by Risk Assessments conducted by a Business or Supplier to ascertain whether or not in a given circumstance there is a risk of Labor Trafficking or Child Labor. Risk Assessments are part of Due Diligence, the scope of which may appropriately vary depending on the Risk Assessment conducted in a given circumstance. Similarly, the scope of Monitoring and Verification and the decision on utilizing either specially-trained Employees or Qualified Independent Third Party Monitors to conduct them, may appropriately vary depending on the Risk Assessment conducted in a given case. The Risk Assessment considers factors such as the type of business being conducted, where the business will be conducted, the history of Labor Trafficking or Child Labor in an industry or sector, operating context, the particular Operations, products or services involved, and any other factors a Business or Supplier deems relevant.

These Model Policies are specifically intended to apply to only the Business and its first tier Suppliers, unless:

1. After conducting a Risk Assessment, or upon receipt of other credible information as a result of Monitoring, Due Diligence, Verification or other activities, the Business or

Supplier determines that there is a material risk of Labor Trafficking or Child Labor with a specific Supplier, or elsewhere in the Supply Chain; and

2. Taking appropriate action (e.g. Monitoring, Verification, or Remediation) with respect to the finding of a material risk of Labor Trafficking or Child Labor is practicable and not cost prohibitive in comparison to the value of the materials purchased from those Suppliers. This could also be done through broader industry initiatives; and

3. The product or service involved is material to the Business, Supplier or their Operations.

However, consistent with UN Guiding Principle 19, even if the Business or Supplier does not have an obligation under these Model Policies to cause a business enterprise lower in the Supply Chain to Remedy a Labor Trafficking or Child Labor impact, the Business or Supplier should still use whatever leverage it does have with that business enterprise or others dealing with this enterprise to encourage the business enterprise that caused the impact to Remedy the impact.

The Model Policies are intended to be of assistance both to Businesses and Suppliers that do not currently have policies relating to Labor Trafficking and Child Labor, as well as to Businesses and Suppliers that have adopted policies but wish to consider possible modification of those policies to reflect evolving practices. As such, these Model Policies are intended to be adopted as, or be adapted and incorporated into, the Businesses' and Suppliers' codes of conduct or policies relating to Labor Trafficking and Child Labor. The Model Policies are designed as a resource for companies seeking to put in place their own policies and should be adapted by the Businesses and Suppliers based on their particular facts and circumstances. For example, while sex trafficking is not the focus of the Model Policies, where forced commercial sex is supplied by the Business, Supplier or their employees or agents as a condition of employment or otherwise, it is the subject of these Model Policies and a Business or Supplier may adapt these Model Policies as necessary to better address it within its specific operating context.

These Model Policies are not intended to be viewed as prescriptive, and failure of a Business or Supplier to adopt the Model Policies as written – or to comply with them once adopted – is not intended to be the basis for criminal or civil liability. Rather, these Model Policies are intended to assist Businesses and Suppliers in developing their own policies to guard against Labor Trafficking and Child Labor. The ABA, through its Business Law Section, also is developing a Database of Resources to supplement the Model Policies to further assist Businesses and Suppliers in this regard. In addition, we encourage each Business or Supplier to use these resources to address the specific Labor Trafficking and Child Labor issues facing the business enterprise. These Model Policies also recognize that business enterprises have varying resources and that some business enterprises may be in a better position to implement and ensure compliance with the Model Policies than others due to size or capacity. The Model Policies are intended to be relevant for all business enterprises regardless of size, sector and location. However, various aspects of the Model Policies may be inappropriate to certain Businesses or Suppliers based upon their particular circumstances or Operations. Nevertheless, these Model Policies are designed to be a starting point or guide for those Businesses that choose to adopt

policies, and their respective Suppliers, in order to effectively address issues of Labor Trafficking and Child Labor in their Operations.

The Model Policies are presented in ways that provide options to a business enterprise that wishes to develop its own policies based in part on the Model Policies. These range from adopting only general business and supplier policies based on the Model Principles—or modifying existing policies to be consistent with those Model Principles (See Part II) to a more comprehensive approach of adopting more detailed business and supplier policies—or modifying existing detailed policies—in a manner consistent with the Model Principles and the related Commentary and Guidance applicable to each (See Parts III and IV), together with the soon-to-be-provided Database of Resources. In either case, the business enterprise is encouraged to adapt the Model Policies to fit its operating environment.

## **PART II. MODEL PRINCIPLES**

### **A. MODEL BUSINESS PRINCIPLES**

**Principle 1—The Business will Prohibit Labor Trafficking and Child Labor in its Operations.**

**Principle 2—The Business will Conduct a Risk Assessment of the Risk of Labor Trafficking and Child Labor and Continually Monitor Implementation of this Policy.**

**Principle 3—The Business should: (i) Train Relevant Employees, (ii) Engage in Continuous Improvement, and (iii) Maintain Effective Communications Mechanisms with its Suppliers.**

**Principle 4—The Business will Devise a Remediation Policy and Plan that Addresses Remediation for Labor Trafficking or Child Labor in its Operations.**

### **B. MODEL SUPPLIER PRINCIPLES**

**Principle 1—The Supplier will Prohibit Labor Trafficking and Child Labor in its Operations.**

**Principle 2—The Supplier will Conduct a Risk Assessment of the Risk of Labor Trafficking and Child Labor and Continually Monitor Implementation of this Policy.**

**Principle 3—The Supplier should: (i) Train Relevant Employees, (ii) Engage in Continuous Improvement, and (iii) Maintain Effective Communications Mechanisms with its Suppliers.**

**Principle 4 —The Supplier will Devise a Remediation Policy and Plan that Addresses Remediation for Labor Trafficking or Child Labor in its Operations.**

## **PART III. MODEL BUSINESS POLICY**

### **Principle 1—The Business will Prohibit Labor Trafficking and Child Labor in its Operations.**

#### **Commentary and Guidance on Principle 1:**

- A. The Business will:
  - 1. Adopt a policy prohibiting the use of Labor Trafficking and Child Labor in its Operations;
  - 2. Not knowingly tolerate any Labor Trafficking or Child Labor in its Operations; and
  - 3. Comply with the laws regarding Labor Trafficking and Child Labor in the country or countries in which the Business has Operations.
- B. The remaining Commentary and Guidance on this Principle are provisions that the Business may want to adopt depending on the results of the Risk Assessment.
- C. The Business should encourage and, where appropriate, require that its first tier Suppliers adopt the Model Supplier Policy set forth in Part IV.
- D. The Business should include a provision in its supply contracts that the Business's policies, including this Policy, are essential to the contract and that Supplier agrees to indemnify the Business and hold it harmless with respect to any violation of relevant laws and regulations, or for any civil or criminal liability arising from the contravention of the Business's Policies by Supplier or any of its Suppliers, including, but not limited to, indemnification for Remedies paid to any victim or any other Remediation hereunder. In the event that the Business determines that Supplier has not made a good faith effort to Remedy or Remediate the potential violation or contravention in order to comply with the law and/or the Business's Policy, then the Business may terminate its Supplier contract immediately, and such termination will be with cause. In the event that the Business determines that Supplier has acted in good faith but has nonetheless failed to Remedy or Remediate the potential violation or contravention, the Business may execute any other appropriate remedy, including but not limited to the training and capacity building called for in Principle 3.

### **Principle 2—The Business will Conduct a Risk Assessment of the Risk of Labor Trafficking and Child Labor and Continually Monitor Implementation of this Policy.**

#### **Commentary and Guidance on Principle 2:**

- A. The Business will:
  - 1. Conduct ongoing Risk Assessments of the risk of Labor Trafficking and Child Labor in its Operations. In conducting Risk Assessments, the Business should identify general areas where the risk of Labor Trafficking and Child Labor is more significant in terms of severity, scale, or probability and prioritize those for greater Due Diligence, Monitoring, Verification or other appropriate action under a given Principle, and

2. Require its Suppliers to conduct ongoing Risk Assessments.
- B. The remaining Commentary and Guidance on this Principle are provisions that the Business may want to adopt depending on the results of the Risk Assessment.
  - C. The Business should draw on internal or external human rights expertise and, as appropriate to the size of the Business and the nature and context of its Operations, engage relevant Stakeholders in conducting all Risk Assessments.
  - D. Based on the result of the Risk Assessment, the Business should examine areas of Business's Operations, its Suppliers and other parts of the Supply Chain with a material risk of Labor Trafficking and Child Labor to identify the extent to which it should:
    1. Monitor its Suppliers' implementation of this Policy;
    2. Perform Due Diligence on Suppliers; and
    3. Adopt a Verification program to ensure its own implementation of this Policy with appropriate executive oversight based on its governance structure.

**Principle 3—The Business should: (i) Train Relevant Employees, (ii) Engage in Continuous Improvement, and (iii) Maintain Effective Communications Mechanisms with its Suppliers.**

**Commentary and Guidance on Principle 3:**

- A. The remaining Commentary and Guidance on this Principle are provisions that the Business may want to adopt depending on the results of the Risk Assessment.
- B. The Business should train relevant employees, engage in continuous improvement<sup>x</sup>, and maintain effective communication mechanisms with its Suppliers.
- C. The Business should communicate this Policy to key Stakeholders, including:
  1. Employees, including managers, supervisors, and other staff with Supply Chain oversight;
  2. Suppliers or agents, if applicable; and
  3. Labor brokers, recruiters, and employment agencies, if used by the Business.
- D. The Business should also publish this Policy or otherwise make it available to the public such as by posting this Policy on the Business's website so that it is available to relevant Stakeholders.
- E. The Business should implement a system that allows Employees, and Employee representatives where applicable, to raise issues regarding Labor Trafficking and Child Labor acts with the Business anonymously, without fear of reprisal, and in accordance with applicable privacy laws. In addition to establishing this system, the Business should publicize the availability of the system, such as by posting it on its website and requiring its prominent display at the workplace so that it is readily available to Supplier Employees at all levels.

**Principle 4—The Business will Devise a Remediation Policy and Plan that Addresses Remediation for Labor Trafficking or Child Labor in its Operations.**

## **Commentary and Guidance on Principle 4:**

- A. The Business should consult with relevant Stakeholders to devise a Remediation policy and plan that addresses:
  - 1. Remedies for individual victims where the Business itself directly caused the Labor Trafficking or Child Labor; and
  - 2. Remediation of broader patterns of non-conformance with the Model Policy caused by deficiencies in the Business's systems or processes.
- B. The remediation policy and plan may appropriately vary depending on the Risk Assessment conducted in a given case.
- C. The Remediation policy and plan of the Business should take into consideration all findings reported through Monitoring, Due Diligence, and Verification efforts or other sources.
- D. Remediation for individual victims should include protocols for appropriate immediate action to eliminate the Labor Trafficking and Child Labor and resources for reasonable and appropriate victim services designed to offset the harm experienced.
  - 1. The business enterprise immediately responsible for the Labor Trafficking or Child Labor should remediate any harm to the individual victims.
  - 2. To the extent that the responsible business enterprise is unwilling or unable to provide such Remediation, then the Business may choose to do so itself in coordination with a number of others including:
    - a. the Supplier and other business enterprises in the Supply Chain;
    - b. other Businesses that utilize the responsible business enterprise; and
    - c. local government, NGOs and other Stakeholders.
  - 3. If the Business chooses to provide all or part of the victim Remediation, then it may be able to rely on the indemnification recommended in Principle 1 for reimbursement.



## **PART IV. MODEL SUPPLIER POLICY**

### **Principle 1—The Supplier will Prohibit Labor Trafficking and Child Labor in its Operations.**

#### **Commentary and Guidance on Principle 1:**

- A. The Supplier should:
  - 1. Adopt a policy prohibiting the use of Labor Trafficking and Child Labor in its Operations;
  - 2. Not knowingly tolerate any Labor Trafficking or Child Labor in its Operations; and
  - 3. Certify to the Business that the product or service provided to the Business complies with the laws regarding Labor Trafficking and Child Labor of the country or countries in which the Business and Supplier has Operations relating to the products or services being provided by the Supplier to the Business.
- B. The Supplier should notify the Business immediately if it learns of instances of Labor Trafficking or Child Labor.
- C. The remaining Commentary and Guidance on this Principle are provisions that the Supplier may want to adopt depending on the results of the Risk Assessment.
- D. The Supplier should encourage and, where appropriate, require its first-tier Suppliers to adopt the Model Supplier Policy set forth in this Part IV.
- E. Where part of a supplier contract, the Supplier agrees that failure to comply with the relevant provisions is grounds for immediate termination of the contract.
- F. The Supplier agrees to indemnify the Business and hold it harmless with respect to any violation of relevant laws and regulations, or for any civil or criminal liability arising from the contravention of the Business's Policy by Supplier or any of its Suppliers of goods or services, including, but not limited to, any Remediation. Supplier also agrees that, in the event that the Business determines that a violation or contravention of relevant laws and regulations or the Business's Policies may have occurred, the Business shall notify Supplier and Supplier shall immediately Remedy or Remediate or cause to be Remedied or Remediated, the potential violation or contravention. In the event that the Business determines that Supplier has not made a good faith effort to Remedy or Remediate the potential violation or contravention in order to comply with the law and/or the Business's Policies, then the Business may terminate its Supplier contract immediately, and such termination will be with cause. In the event that the Business determines that Supplier has acted in good faith but has nonetheless failed to Remedy or Remediate the potential violation or contravention, the Business may execute any other appropriate remedy, including but not limited to the training and capacity building called for in Principle 3.

### **Principle 2—The Supplier will Conduct a Risk Assessment of the Risk of Labor Trafficking and Child Labor and Continually Monitor Implementation of this Policy.**

## **Commentary and Guidance on Principle 2:**

- A. The Supplier will:
  - 1. Conduct ongoing Risk Assessments of the risk of Labor Trafficking and Child Labor in its Operations. In conducting Risk Assessments, the Supplier should identify general areas where the risk of Labor Trafficking and Child Labor is more significant in terms of severity, scale, or probability and prioritize those for greater Due Diligence, Monitoring, Verification or other appropriate action under a given Policy; and
  - 2. Require its Suppliers to conduct ongoing Risk Assessments.
- B. The remaining Commentary and Guidance on this Principle are provisions that the Supplier may want to adopt depending on the results of the Risk Assessment.
- C. The Supplier should draw on internal or external human rights expertise and, as appropriate to the size of the Business and the nature and context of its Operations, engage relevant Stakeholders in conducting all Risk Assessments.
- D. Based on the Result of the Risk Assessment, the Supplier should examine areas of the Supplier's Operations, its Suppliers and other parts of the Supply Chain with a material risk of Labor Trafficking and Child Labor to identify the extent to which it should:
  - 1. Monitor its Suppliers' implementation of this Policy;
  - 2. Perform Due Diligence on Suppliers; and
  - 3. Adopt a Verification program to ensure its own implementation of this Policy with appropriate executive oversight based on its governance structure.
  - 4. The Supplier will cooperate fully in providing reasonable access to the Business and Qualified Independent Third-Party Monitors engaged in Due Diligence or Monitoring activities. The scope of Due Diligence, Monitoring, and the decision to use either specially trained Employees or Qualified Independent Third-Party Monitors, may appropriately vary depending on the Risk Assessment conducted in a given case.

## **Principle 3—The Supplier should: (i) Train Relevant Employees, (ii) Engage in Continuous Improvement, and (iii) Maintain Effective Communications Mechanisms with its Suppliers.**

### **Commentary and Guidance on Principle 3:**

- A. The remaining Commentary and Guidance on this Principle are provisions that the Supplier may want to adopt depending on the results of the Risk Assessment.
- B. The Supplier should train relevant employees, engage in continuous improvement<sup>xi</sup>, and maintain effective communication mechanisms.
- C. The Supplier should communicate the Policy to key Stakeholders, including:
  - 1. Employees, including managers, supervisors, and other staff with Supply Chain oversight;
  - 2. Suppliers or agents, if applicable; and
  - 3. Labor brokers, recruiters, and employment agencies, if used by the Supplier.
- D. The Supplier should also publish this Policy or otherwise make it available to the public such as by posting this Policy on the Supplier's website so that it is available to relevant Stakeholders.

- E. The Supplier should implement a system that allows Employees, and Employee representatives where applicable, to raise issues regarding Labor Trafficking or Child Labor with the Business anonymously, without fear of reprisal, and in accordance with applicable privacy laws. In addition to establishing this system, the Business should publicize the availability of the system, such as by posting it on its website and requiring its prominent display at the workplace so that it is readily available to Business and Supplier Employees at all levels.

## **Principle 4 —The Supplier will Devise a Remediation Policy and Plan that Addresses Remediation for Labor Trafficking or Child Labor in its Operations.**

### **Commentary and Guidance on Principle 4:**

- A. The Supplier should consult with relevant Stakeholders to devise a Remediation policy and plan that addresses:
  - 1. Remediation for individual victims where the Supplier itself directly caused the Labor Trafficking or Child Labor; and
  - 2. Remediation of broader patterns of non-conformance with this Policy caused by deficiencies in the Supplier’s systems or processes.
  - 3. The Remediation policy and plan may appropriately vary depending on the Risk Assessment conducted in a given case.
- B. The Remediation policy and plan of the Supplier should take into consideration all findings reported through Monitoring, Due Diligence, and Verification efforts or other sources.
- C. Remediation for harm to individual victims should include protocols for appropriate immediate action to eliminate the Labor Trafficking and Child Labor and resources for reasonable and appropriate victim services designed to offset the harm experienced.
  - 1. The business enterprise immediately responsible for the Labor Trafficking or Child Labor should remediate any harm to the individual victims.
  - 2. To the extent that the responsible business enterprise is unwilling or unable to provide such Remediation, then the Supplier may choose to do so itself in coordination with a number of others including:
    - a. the Supplier and other business enterprises in the Supply Chain;
    - b. other Businesses that utilize the responsible business enterprise; and
    - c. local government, NGOs and other Stakeholders.
  - 3. If the Supplier chooses to provide all or part of the victim Remediation, then it may be able to rely on the indemnification recommended in Principle 1 for reimbursement.

## **PART V. MODEL GLOSSARY**

**“Business”** - [name of Business or Supplier adopting these Policies].<sup>xii</sup> The term “business enterprises” refers to businesses generically.

**“Child Labor”** - Work performed by a person who is under the minimum legal working age to be employed as determined by (i) a Business’s or Supplier’s policy, (ii) the law of the jurisdiction in which the work will be performed, or (iii) the International Labor Organization Minimum Age Convention No. 138 - whichever indicates the higher minimum age requirement.<sup>xiii</sup>

**“Due Diligence”** - The ongoing process of investigating the facilities, policies, and labor practices of potential and contracted Suppliers to help confirm that no Supplier engaging in Labor Trafficking or Child Labor enters the Business’s Supply Chain.

**“Labor Trafficking”** - The act of recruiting, harboring, transporting, providing, or obtaining a person for involuntary labor or services by means of force or physical threats, fraud or deception, or other forms of coercion.<sup>xiv</sup> Labor trafficking shall also include:

- **“Trafficking-Related Activities”** – All activities that directly support or promote Labor Trafficking or Child Labor, including but not limited to: (i) using misleading or fraudulent recruitment practices during the recruitment of employees, such as failing to disclose basic information or making material misrepresentations regarding the key terms and conditions of employment, including wages and fringe benefits, the location of work, living conditions and housing (if employer-provided or employer-arranged), any significant costs to be charged to the employee, and, if applicable, the hazardous nature of the work; (ii) charging employees recruitment fees; and (iii) destroying, concealing, confiscating, or otherwise denying access by an employee to the employee's identity documents, such as passports or drivers' licenses.<sup>xv</sup>

**“Monitoring”** - The process of investigating and evaluating the implementation of these Policies by the Supplier(s) of the Business or Supplier through announced and unannounced visits conducted on randomly selected Suppliers and carried out by (i) specially trained Employees of the Business or Supplier or (ii) Qualified Independent Third-Party Monitors.

**“Operations”** – Activities involved in the day-to-day functions of the business conducted for the purpose of generating profits, including, but not limited to, its employment-related and Supply Chain practices.

**“Qualified Independent Third-Party Monitors”** – An organization with no affiliation with the Business Supplier or their Employees, that has a demonstrated expertise in conducting qualitative and quantitative reviews of potential Labor Trafficking and Child Labor within the Operations of Business or Supplier.

**“Remediation”** - Activities, systems policies or procedures that the Business or Supplier establishes to address and remedy confirmed instances of Labor Trafficking or Child Labor in its operations.

**“Remedies”** - Financial or nonfinancial compensation awarded to victims of Labor Trafficking or Child Labor.

**“Risk Assessment”** - An ongoing analysis conducted by a Business to ascertain whether or not in a given circumstance there is a significant risk of Labor Trafficking or Child Labor by considering such factors as the type and location of the business being conducted, the history of Labor Trafficking and Child Labor in the industry or sector, the Operating context, the particular products or services involved, and other relevant factors.

**“Stakeholder”** - Any individual or entity having an interest in the Business developing and maintaining a Supply Chain free of Labor Trafficking or Child Labor including but not limited to Employees, labor service intermediaries, non-governmental organizations and governments.

**“Supplier”** - Organizations and individuals in the Business’s Supply Chain who contracts directly with the Business or a Supplier.

**“Supply Chain”** - Any organizations or individuals involved in providing services to the Business or producing, processing, or distributing the Business’s products from the product’s point of origin to the Business or point of sale, as applicable.

**“Verification”** - Process by which the Business or Supplier evaluates itself or is evaluated by a Qualified Independent Third-Party to determine its degree of success in implementing and enforcing this Policy. This includes an evaluation of (1) data gathered through Monitoring activities to ensure results are reliable, objective and obtained via a credible process; and (2) whether any Remediation has been implemented, and if so, if such Remediation is objective and effective. The scope of Verification may appropriately vary depending on the Risk Assessment conducted in a given case.

## **PART VI. ENDNOTES**

---

<sup>i</sup> Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy Framework,” A/HRC/17/31, 21 March 2011. The ABA endorsed this approach in February 2012. See ABA Report & Recommendation on UN Guiding Principles on Business & Human Rights: [http://www.americanbar.org/content/dam/aba/directories/policy/2012\\_hod\\_midyear\\_meeting\\_109.doc](http://www.americanbar.org/content/dam/aba/directories/policy/2012_hod_midyear_meeting_109.doc)

<sup>ii</sup> Id.

<sup>iii</sup> International Labour Organization, Forced Labour Global Estimate, [http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_181961/lang--en/index.htm](http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_181961/lang--en/index.htm) which has been commended by the US Department of Labor [http://www.ilo.org/sapfl/News/WCMS\\_182302/lang--en/index.htm](http://www.ilo.org/sapfl/News/WCMS_182302/lang--en/index.htm).

<sup>iv</sup> Id.

<sup>v</sup> Id.

<sup>vi</sup> International Labour Organization: International Program on the Elimination of Child Labour: <http://www.ilo.org/global/topics/child-labour/lang--en/index.htm#a2>.

<sup>vii</sup> United Nations Resources for Speakers on Global Issues, <http://www.un.org/en/globalissues/briefingpapers/childlabour/quotes.shtml>.

<sup>viii</sup> See for example Section 1502 of the Dodd Frank Act relating to conflict minerals; the 2008 amendments to the Trafficking Victims Protection Act relating to Fraud in Foreign Labor Contracting and Benefiting Financially from Peonage, Slavery, and Trafficking in Persons; the California Transparency in Supply Chains Act—SB 657; and President Obama’s Executive Order 13627 and the National Defense Authorization Act for Fiscal Year 2013.

<sup>ix</sup> Commentary to Paragraph II (a) 11, UN Guiding Principles on Business and Human Rights.

<sup>x</sup> A framework for the training and continuous improvement activities referred to in this Model Principle 3 will be found in the Database of Resources to be provided. For now, please refer to the Department of Labor’s ILAB Toolkit at <http://www.dol.gov/ilab/child-forced-labor/step4/index.htm>].

<sup>xi</sup> Id.

<sup>xii</sup> The definition of “Business” is intended to include: United States businesses, formed under the laws of the United States, doing business domestically and abroad, as well as foreign businesses, formed under the laws of countries other than the United States doing business in the United States, without distinction between size, industry and/or regulated or non-regulated status. The definition of “Business” for purposes of these Policies means any sole proprietorship, partnership, corporation, limited liability company, limited partnership, limited liability limited partnership and other forms of business organizations as may be defined under the laws of any country and includes all affiliates, subsidiaries, divisions, other business units of a Business; provided, however, that a subsidiary may adopt the Policies even if its parent has not done so.

<sup>xiii</sup> Child Labor is subject to numerous definitions. Child Labor definitions vary both in terms of the applicable ages and the work permitted to be performed by children. Notwithstanding these varied definitions, the International Labor Organization (ILO) provides helpful guidance. The ILO notes that “[o]ne of the most effective methods of ensuring that children do not start working too young is to set the age at which children can legally be employed or

---

otherwise work.” ILO Minimum Age Convention 138, which separately has been endorsed by the ABA, generally sets 15 as the youngest age that children can work. However, the possible exceptions in Articles 6 and 7, as well as variations for qualifying developing countries (as defined by the ILO), could allow 12 to 14 year-olds to work. For hazardous work, 18 is the youngest acceptable age, although 16 and 17 year-olds can work “under strict conditions.” Many Business policies referring to Child Labor incorporate the ILO definitions and indicate age limitations varying from 14 to 16 years of age, subject to local child labor law, which in some cases could permit a child younger than 14 to work. Therefore the Model Policies definition adopts, as a minimum legal working age, the age permitted by ILO Minimum Age Convention 138 under the particular circumstances the However child employment, which under the ILO Minimum Age convention may be permissible, becomes Labor Trafficking when the employer maintains control over the child through the use of force, fraud, and/or coercion and this control results in the child's belief that he or she has no other choice but to continue to work for this employer. It does not matter whether the child is over the minimum of age or not. If the child believes that he or she has no other option, i.e., cannot attend school, through the use of force, fraud and/or coercion then the actions of the employer rise to the level of Labor Trafficking, irrespective of ILO Minimum Age Convention 138.

<sup>xiv</sup> Labor Trafficking has no single definition. Those entities that have sought to address it – including governments, international organizations, and members of civil society – have defined Labor Trafficking differently, reflecting the variety of activities that may constitute such conduct. Nevertheless, these definition share common elements that may prove helpful in guiding a Business or Supplier in its efforts to address Labor Trafficking in its operations. The Database of Resources will contain the U.S. and international legal definitions of labor trafficking, as well as domestic and international definitions of related concepts, such as human trafficking, trafficking in persons and forced labor. Like labor trafficking, all of these terms are defined differently by various entities but also have many common elements. Forms of Labor Trafficking can include forced labor in underground markets and sweatshops, as well as in legitimate businesses, including those in the manufacturing, travel, entertainment, hospitality, agricultural, service, and extractive industries. Movement of persons is not required for Labor Trafficking to exist; i.e., Labor Trafficking can occur without the victim leaving his or her hometown. People may be considered victims of Labor Trafficking regardless of whether they were born into a state of servitude, were transported to the exploitative situation, previously consented to work for a the individual controlling them, or participated in a crime as a direct result of being trafficked, including the use of illegal substances. These facts become irrelevant once a person is compelled to work by force, fraud, or coercion, which can occur at any point within the employment cycle.

<sup>xv</sup> Trafficking Related Activities, refer to those actions, usually employed by labor brokers, to facilitate Labor Trafficking and Child Labor. These Model Policies use the definition contained in Executive Order 13627 issued by President Obama on September 25, 2012.