**BLANKET PURCHASE AGREEMENT (BPA)**

**UNDER USAID PRIME CONTRACT** (“Agreement”)

**COVER SHEET**

|  |  |
| --- | --- |
| **Company Name** (“Company” or “Buyer”) | Palladium International LLC |
| Company Country | United States of America |
| Address | 1331 Pennsylvania Ave NW, Suite 600 Washington, D.C. 20004, United States |
| Company Technical Representative Name and Title | Click here to enter text. |
| Company Representative Email | Click here to enter text. |
| Company Contracting Representative Name and Title | Turner Hirsh, Director of Finance and Compliance, USAID CATALYZE |
| Company Representative Email | turner.hirsh@thepalladiumgroup.com  |
| Company Contracting Representative (Alternate) Name and Title | Click here to enter text. |
| Company Representative Email | Click here to enter text.   |
|  |
| **Vendor Name** (“Seller”) | Click here to enter text. |
| Vendor’s DUNS Number | Click here to enter text. |
| Address | Click here to enter text. |
| Vendor’s Technical Representative Name and Title | Click here to enter text. |
| Vendor’s Representative Email | Click here to enter text. |
| Vendor’s Contracting Representative Name and Title | Click here to enter text. |
| Vendor’s Representative Email | Click here to enter text. |
| Project Name (“Project”) | Click here to enter text. |
| Vendor Agreement Number (if applicable) | Click here to enter text. |
|  |
| Client (“Client”) | U.S. Agency for International Development |
| Prime Contract date and parties (“Head Contract”) | 10/01/2019, 9/30/2024 |
| Prime Contract Currency | USD |
| Effective Date of the Agreement (“Effective Date”) | Click here to enter a date. |
| End Date of the Agreement (“Term”) | Click here to enter a date. |
| Ordering Period (“Ordering Period”) | From MM/DD/YYYY to MM/DD/YYYY |
| Agreement Type: | **Blanket Purchase Agreement** |
| Agreement Ceiling: | Click here to enter text. |
| Country of Performance (“Recipient Country”) | Click or tap here to enter text. |
| Jurisdiction (“Jurisdiction”) | District of Columbia, United States of America |
| Agreement Currency (“Agreement Currency”) | USD |
| Records Retention Period (“Records Retention Period”) | In accordance with FAR 4.7 |
| Payment by | Wire Transfer |

This Agreement is governed by the laws of the Jurisdiction and the Parties submit to the jurisdiction of the courts of such place. This Agreement constitutes the entire agreement between the Parties. Any prior understanding, representation or warranty of any kind preceding the date of this Agreement is hereby superseded by this Agreement.

|  |  |  |  |
| --- | --- | --- | --- |
| Signed for the Buyer: |  | Signed for the Seller: |  |
| Name: | Click here to enter text. | Name: | Click here to enter text. |
| Title/Role: | Click here to enter text. | Title/Role: | Click here to enter text. |
| Date: | Click here to enter a date. | Date: | Click here to enter a date. |

**TERMS AND CONDITIONS**

This Blanket Purchase Agreement (“Agreement”) is made between **Palladium International, LLC** (“**Palladium**” or “Prime Contractor” or “Buyer”), a limited liability company incorporated under the laws of the State of Delaware, U.S.A., and Click here to enter text. (hereinafter called the “Seller”) a Click here to enter text., incorporated under the laws of Click here to enter text.

The Agreement is in full force as of the first day of the Effective Date between the Company and the Seller. The Company and the Seller are collectively referred to as “the Parties”.

Now, therefore, in consideration of the promises and of the mutual covenants and agreements contained herein, and intending to be legally bound, the parties hereby agree to the following terms and conditions of this Agreement:

1. General
	1. Resultant Task Orders shall be subject only to the Terms and Conditions in this Blanket Purchase Agreement. Reference to any proposal or quotation from Seller is only for the purpose of specifying basic information concerning price, the description of the item(s), quantities, terms of payment, and delivery, and then only as such terms are consistent with the Terms and Conditions herein.
	2. Any of the Seller’s Terms and Conditions which are in addition to or are inconsistent with these Terms and Conditions will be construed as proposals for this Order and will not be binding unless agreed to in writing by the Buyer. Commencement of performance by the Seller in the absence of the Buyer’s agreement to the proposals will constitute Seller’s acceptance of these Blanket Purchase Order Terms and Conditions.
2. authorized buyer representatives
	1. The following representatives of the Buyer are authorized to place orders under this Agreement:

|  |
| --- |
| BUYER REPRESENTATIVES |
| CONTACT 1 |  |
| Name: | Click here to enter text. |
| Title: | Click here to enter text. |
| Email: | Click here to enter text. |
| Phone: | Click here to enter text. |
|  |  |
| CONTACT 2 |  |
| Name: | Click here to enter text. |
| Title: | Click here to enter text. |
| Email: | Click here to enter text. |
| Phone: | Click here to enter text. |
|  |  |
| CONTACT 3 |  |
| Name: | Click here to enter text. |
| Title: | Click here to enter text. |
| Email: | Click here to enter text. |
| Phone: | Click here to enter text. |

1. Orders
	1. Orders will be placed against this Agreement in writing via Task Orders (“TO”) issued via electronic mail, fax or paper.
	2. Unless otherwise agreed to, all deliveries under this Agreement must be accompanied by delivery tickets or sales slips that must contain the following information (as applicable) as a minimum:
		1. Name of Seller;
		2. Vendor Agreement Number;
		3. Task Order Number;
		4. Date of Delivery/Completion; and
		5. Quantity, Unit Price, and Extension of Each Item (unit prices and extensions need not be shown when incompatible with the use of automated systems, provided that the invoice is itemized to show the information); and
	3. The Terms and Conditions included in this Agreement apply to all purchases made pursuant to it. In the event of an inconsistency between the provisions of this Agreement and the Seller’s invoice, the provisions of this Agreement will take precedence.
2. Supplies and services
	1. The services, products, goods or supplies that can be ordered under this Agreement are detailed in Annex A. All orders placed against this Agreement are subject to the terms and conditions of this Agreement.
3. price
	1. Seller shall furnish the supplies and services called for by the resultant Task Order at the price or prices stated in the Task Order; any increase in any stated price will only be reflected through a written amendment to the Task Order authorized by Buyer.
	2. The Buyer estimates, but does not guarantee, that the volume of purchases through this Agreement will not exceed the ceiling price listed on the Cover Sheet.
	3. This Agreement does not obligate any funds.
4. Delivery
	1. If Seller’s deliveries fail to meet the schedule specified in the Task Order, with the result that Buyer requires and Seller makes express shipments, partial shipments, or both, then Seller agrees to assume all resulting excess shipping charges.
5. packaging
	1. RESERVED
6. Shipping
	1. RESERVED
7. Changes
	1. By written Change Order, Buyer may at any time unilaterally (i) suspend the work in whole or in part for a stated time period, and (ii) make changes in one or more of the following elements: method of shipment; place or time of delivery or quantities-to be furnished; however, any acceleration in the delivery date requires Seller’s advance consent. If such suspension or change causes an increase or decrease in the cost of, or the time required for furnishing the work (whether supplies or services) upon mutual agreement, an equitable adjustment shall be made in the Task Order price, delivery schedule, or both.
	2. The Buyer’s engineering, technical, and other personnel may, on occasion, render assistance, exchange information, or give advice to Seller’s personnel concerning the supplies or services furnished hereunder. Such assistance, however, exchange or advice shall not constitute either a change under this Section or a waiver of the Seller’s existing obligations. In order to be valid and binding upon Buyer, any change, waiver, or amendment to this Task Order must be in writing and signed by an authorized representative of the Buyer’s purchasing department.
8. Taxes
	1. All prices shall include any applicable local, state, and or federal taxes.
9. invoices
	1. Individual invoices must be issued for each shipment or service called for in the Task Order. Freight and other charges must be shown separately. Delay in receiving an invoice, invoicing for supplies shipped ahead of specified schedule, or invoices rendered with errors and omissions will be considered just cause for Buyer to withhold payment. Invoices, to be acceptable, must reference the Buyer’s Task Order Number.
10. inspection
	1. All supplies and services ordered under a Task Order will be subject to final inspection and approval by Buyer after delivery, notwithstanding prior payment; it being expressly agreed that payment shall not constitute final acceptance. Buyer may reject and return (at Seller’s expense) any item which contains defective material or workmanship or otherwise does not conform to this Order, applicable drawings, specifications, or samples.
11. Warranties
	1. Seller represents and further warrants that the Product:
		1. performs the functions and operates in the manner described in End User documentation, and
		2. does not contain errors that prohibit its operation in conformance with the End User documentation.
	2. These warranties shall remain in effect, as to each item furnished, services, and/or repaired hereunder for a period of time consistent with the warranty life normally offered by the Seller.
	3. The benefits of this warranty shall accrue to Buyer’s customers and assigns to the same extent they shall accrue to Buyer. Articles ordered to government specifications shall comply with such specifications as are current as of this Order unless otherwise particularly specified by the Buyer. Under circumstance of Breach of Warranty, Buyer shall be entitled to avail itself cumulatively of all remedies provided in law or in equity. Seller shall make timely responses to Buyer’s notifications of Breach of Warranty and shall respond with the understanding (and Seller agrees) that time will be of the essence in all instances.
12. Patents and copyrights
	1. Seller agrees to save Buyer, its Customers, and agents harmless from any loss, damage, or liability incurred on account of any alleged infringement of any patent or copyright with respect to all supplies furnished under this Order. Seller also agrees that it will, at its own expense, defend any action, suit, or claim in which infringement is alleged provided Seller is duly notified as to such suit. In case a delivered item, or any part thereof, is held to constitute an infringement and the use of the item or any part thereof, is enjoined, Seller shall, at its expense, either procure for Buyer the right to continue using the item, or any part thereof, or replace same with non-infringing item, or part thereof, or modify item so that it becomes non-infringing, or in the event of the impossibility of the foregoing options grant Buyer a credit for the purchase price and shipment cost of such item. Seller shall not be liable to Buyer if any patent infringement or claim thereof is based upon the use of the item in combination with other materials where such infringement or claim thereof would not have occurred from the normal use for which the item was designed.
13. Assignments
	1. Seller may not assign either its rights or obligations under this Order without the prior written consent of Buyer.
14. termination
	1. For Cause: Buyer reserves the right to terminate the Task Order, or any part thereof, and to cancel all or any part of the undelivered portion of the Task Order if Seller:
		1. fails to deliver the supplies or perform the services by the time specified in the Order,
		2. fails to deliver supplies or perform services that meet the required specifications, or otherwise breaches any of the other terms of the Order, including the warranties, or
		3. fails to make progress in the work as to endanger performance.
		4. Buyer shall also have the right to terminate the Order or any part thereof, and cancel all or any part of the undelivered portion in the event of the happening of any of the following: insolvency of Seller; filing of a voluntary petition in bankruptcy; filing of any involuntary petition to have Seller declared bankrupt provided it is not vacated within thirty days from the date of such filing; or the execution of Seller of any assignment for the benefit of creditors. Buyer shall have no obligations to Seller in respect of the canceled portion of the Order and Buyer’s liability shall be limited to payment for the delivered portion of the Order at the rate specified on the face hereof (reflecting quantity prices as though this Task Order had done to full completion). These remedies shall be cumulative and additional to any other or further remedies provided in law or in equity.
	2. For Convenience: Buyer may, for its convenience, terminate work under a Task Order in whole or in part at any time by giving notice to Seller in writing. Seller will thereupon immediately stop work on the Task Order or the terminated portion thereof and notify any suppliers to do likewise. Seller shall be entitled to:
		1. reimbursement for its performance up to and including the date of termination, such cost to be determined in accordance with recognized accounting principles. In no event shall Buyer’s obligations, as a consequence of the termination, exceed the Task Order price of the items terminated. At its election, Buyer shall have the right to direct the disposition of any or all work in process, parts, and materials included in the Seller’s performance costs: Seller will comply with the Buyer’s direction. Prior to settlement of any final performance termination claim, Seller hereby grants to Buyer (i) the right to physically inspect any and all inventory included in the claim, and (ii) the right of Buyer, or its designee, to audit the directly pertinent books, records and documents, relating to the costs claimed for reimbursement.
	3. If after the Order has been totally or partially terminated by a “for cause” notice, and it is determined that Seller’s failure is excused pursuant to Section 17 below then such notice shall be deemed to have been issued “for convenience” and the rights of the parties shall be governed by Section 16.2 above.
	4. Refer to section 31 for more information on Performance Management.
15. excusable delays
	1. Except for defaults and inexcusable delays of subcontractors at any tier, the Seller shall not be in default solely because of any failure to perform the Task Order requirements if the failure is excusable and arises from causes totally beyond the control and without the fault or negligence of the Subcontractor. Examples of these causes are (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) labor strikes, (8) freight embargoes, and (9) unforeseeable and unusually severe weather (to the extent such weather was experienced not due to other delays caused by the Seller which pushed the Seller’s performance into that adverse weather). In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Seller. Default includes failure to make progress in the performance of the Task Order requirements so as to endanger performance.
	2. If the failure to perform is caused by the failure of a subcontractor of Seller at any tier to perform or make progress, and if the cause of the failure was beyond the control of both the Seller and its lower tier subcontractor, and without the fault or negligence of either, the Seller shall not be deemed to be in default, unless –
		1. The subcontracted supplies or services were obtainable from other sources;
		2. The Buyer ordered the Seller in writing to purchase these supplies or services from the other source; and
		3. The Seller failed to comply reasonably with this order.
		4. Notwithstanding the above, the Buyer reserves the right to self-perform any of the services or obtain the supplies which the Seller is unable to perform due to excusable delays as outlined above and reduce the ceiling or portions of work assigned to the Seller under this Agreement accordingly.
		5. Furthermore, if the Client determines that the delay is inexcusable or otherwise claims damages or other recovery against Buyer for the Seller-caused delay, then Seller shall be liable to Buyer therefor and agrees to indemnity and hold Buyer harmless for any claims or damages relating thereto.
	3. Upon request of the Seller, the Buyer shall ascertain the facts and extent of the failure. If the Buyer determines that any failure to perform results from one or more of the excusable causes above, the delivery schedule shall be revised, subject to the rights of the Buyer under the termination clause of this Agreement.
16. disputes
	1. Government-related disputes. In the event Seller makes any claim involving any action or directive by, or on behalf of, the Government, or any question as to Seller’s compliance with the Prime Contract (“Government-related dispute”), Seller shall submit its claim to Buyer, certified per the Contract Disputes Act and FAR 52.233-1, as a pass-through claim for presentation to the Government. In the case of a Government-related Dispute, Buyer’s liability to Seller shall be limited solely and exclusively to whatever monies are recovered in hand on behalf of Seller from the Government. If Seller submits a Government-related dispute to Buyer, and Buyer chooses at its sole discretion to present a pass-through claim against the Government, the following provisions will apply.
	2. Claim presentation. Buyer, upon the written request by Seller, shall present Seller’s Government-related dispute to the Government as a pass-through claim for resolution under the “Disputes” provisions of the prime contract and applicable law and regulation. Buyer agrees to present such claims for and on behalf of Seller and to pass Seller’s Government-related dispute through to the Government in good faith, subject to Seller’s providing sufficient justification, back-up and certification of said Government-related dispute.
	3. Costs, fees, and expenses. Seller shall bear all reasonable and documented costs, fees, and expenses associated with, and incurred by Buyer, as part of Buyer’s presentation of Seller’s Government-related disputes to the Government, including attorney’s and consultant’s fees.
	4. Exclusive remedy. The pass-through process described above shall be Seller’s only remedy for Government-related disputes. Seller shall make no claims against the Buyer for Government-related disputes, and any such claims shall be dismissed.
	5. Arbitration. All claims and disputes arising under, or relating to, this Agreement that are not Government-related disputes (e.g., are directly and exclusively between Buyer and Seller) are to be settled by binding arbitration to be held in the District of Columbia, USA. The arbitration shall be conducted on a confidential basis pursuant to the the-existing commercial arbitration rules of the American Arbitration Association (AAA). Any such arbitration shall include a written record of the arbitration hearing. An award of arbitration may be confirmed in a court of competent jurisdiction.
	6. Mediation: as a condition precedent to filing a demand for arbitration or otherwise initiating litigation, the parties hereto agree that they shall first attempt to resolve their dispute by mediation through the American Arbitration Association by filing a request for mediation with the AAA and the other party. That being said, a party can file a demand for arbitration simultaneously with the request for mediation, but AAA shall hold the demand for arbitration in abeyance until the mediator declares and impasse.
	7. Applicable law. The laws of the District of Columbia shall govern the construction and interpretation of the rights and duties of the parties under this agreement.
	8. Duty to perform. Pending final decision on any dispute under this article, Buyer and Seller will proceed and continue with performance unabated. Until final resolution of any dispute hereunder, Seller shall diligently proceed with the performance of this Agreement as directed by Buyer.
	9. Applicable Law. The laws of the District of Columbia shall govern the construction and interpretation of the rights and duties of the Parties under this Agreement.
	10. Duty to Perform. Pending final decision on any dispute under this Article, Buyer and Seller will proceed with performance.
17. compliance with applicable laws
	1. Compliance with Applicable Law. Seller warrants and certifies that in the performance of this Agreement, it will comply with all applicable statutes, rules, orders and regulations of the United States, the applicable statutes, rules, orders and regulations of the nation in which work is performed, and all other applicable state laws. This shall include, but not be limited to, compliance with the Foreign Corrupt Practices Act found at 15 U.S.C § 78dd-1 *et seq*.
18. notification of debarment/suspension status
	1. The Seller shall provide immediate notice to the Buyer in the event of being suspended, debarred or declared ineligible by any U.S. Government department or other U.S. Federal agency, or upon receipt of a notice of proposed debarment from a U.S. Federal agency, during the performance of this Agreement.
19. non-support of terrorism
	1. By signing acceptance of these terms and conditions the Seller certifies that to the best of its knowledge, it or its employees did not provide, within the previous ten years, and will take all reasonable steps to ensure that it does not and will not knowingly provide material support or resources to any individual or entity that commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated, or participated in terrorist acts.
20. Confidential relationship
	1. Both parties agree to treat as confidential all information supplied by the other party, and not in the public domain, in connection with this Order, including specifications, drawings, blueprints, and other technical data, or statements of work (collectively referred to as “documents”). Each party agrees to:
		1. limit use of aforementioned documents or information to the performance of this Order, and
		2. limit disclosure to those employees necessary for the performance of this Order, unless prior written consent has been granted by the disclosing party to permit other use of disclosure.
	2. Each party shall, upon request or upon completion, promptly return all documents previously supplied and destroy any and all copies that were reproduced.
21. liability for injury
	1. Seller shall indemnify and hold Buyer harmless against all loss and liability on accounts of claims of personal injury, death, and property damages resulting from any act or omission of Seller (including its agents, employees, and Subcontractor) in the course of performing this Order, including the supplies delivered or services performed hereunder. Seller shall maintain such Public, Liability, Property Damage, Employer’s Liability, and Compensation insurance as will protect Seller and Buyer from the aforementioned risk and from claims under applicable Worker’s Compensation statutes, where applicable and when required under a resultant Task Order.
22. advertising
	1. Any advertising of this Order (including the supplies of services hereunder and pictures, descriptions, or samples thereof) is prohibited except by mutual agreement of the Buyer and Seller.
23. Governing laws
	1. This Agreement shall be construed in accordance with, and governed by the laws of District of Columbia, United States of America except that any provision of this Agreement that is incorporated in full text or by reference in this Agreement from any agency regulation or that is substantially based on any such agency regulation, shall be construed and interpreted according to the U.S. federal common law of government contracts as enunciated and applied by federal judicial bodies, boards of contract appeals, and quasi-judicial agencies of the federal government.
24. Government Contracting
	1. If a federal government contract number appears on the face of this Agreement, then the Federal Acquisition Regulations (FAR) procurement clauses as amended as of the date of the Agreement, and listed in Annex C to the Agreement shall apply and prevail insofar as they are inconsistent with any of the provisions set forth above.
25. precedence
	1. Any inconsistencies in this Agreement shall be resolved in accordance with the following (in descending order of precedence): (1) cover sheet of the Agreement (2) Funding Client Flow Down Clauses, if any (3) Annex A Price List of Supplies/Items with supplemental terms and conditions, if any (4) Terms and Conditions.
26. timeliness
	1. Time is of the essence in this Agreement. Seller’s timely performance is a critical element of this Agreement.
	2. Unless advance shipment has been authorized in writing by Buyer, Buyer may store, at Seller’s expense, or return and collect the shipping charges, all Goods received in advance of the scheduled delivery date.
	3. If Seller becomes aware of difficulty in providing the Goods and Services, Seller shall promptly notify Buyer, in writing, giving pertinent details. This notification shall not change any delivery schedule.
27. Payment and set-off
	1. At any time Buyer may deduct from any payment(s) all or part of any amount due Seller, whether in connection with this Agreement or any other agreement(s) between Buyer and Seller, that Buyer determines to be owed to it by the Seller.
	2. The Agreement Price(s) is/are all-inclusive and shall not be subject to adjustment based on Seller’s cost experience, or for any other reason (unless and only to the extent otherwise expressly provided in this Agreement). Unless otherwise expressly stated in any other provision of the Agreement (or as may be reasonably agreed on a case-by-case basis and effected by the parties in an amendment), all costs, fees, direct and indirect costs, wages, fringe and other benefits, social charges, allowances, differentials, inspections and tests, audits, insurances, taxes, and service, labor and other charges, as well as all effort and risks of whatever nature and amount relating to or resulting from performing the Agreement, whether by Seller itself or third parties, shall be deemed to be included in the Agreement Price(s).
28. Ordering procedures
	1. The Buyer shall issue Request for Task Order Proposals (“RFTOP’) directly to all eligible BPA holders. All Task Orders must be:
		1. Solicited and awarded by the appropriate Project authority
		2. Within the scope of work described in this BPA and consistent with all other terms and conditions of the Project contract
		3. In accordance with Palladium and CATALYZE procurement policies
		4. Identify the Target Area(s)
	2. Specific requirements for responding to RFTOPs and subsequent and evaluation criteria will be detailed in each RFTOP.
	3. All costs associated with the preparation, presentation, and discussion of the Seller’s proposal in response to a RFTOP will be at the Seller’s sole and exclusive expense and each Task Order will be funded by the Buyer at the task order level.
29. Performance management
	1. General. TOs will be structured in a way to incentivize performance and ensure competition among BPA holders to drive results. Subject to the terms of the TO, the BASPs will be required to meet certain targets or indicators within a specific timeframe. Those BASPs who achieve the targets detailed in TOs will be allowed to proceed implementing the TO while those who do not meet the targets or indicators may have their TO closed out early in accordance with Section 16 of this Agreement.

The Project may then choose to issue a RFTOP to identify additional BASPs and award one or multiple TOs to backfill the spot vacated by underperforming BASPs who had their TOs closed out early.

Those high performing BASPs who fully deliver their TO within the timeframe will be eligible for additional TOs, subject to the prevailing needs of the project.

* 1. Dormant Status. The Project is responsible for ensuring performance and compliance with the terms of the CATALYZE contract and safeguarding the interests of the Government and the American taxpayer in its contractual relationships. Additionally, the Project must ensure that BASPs receive impartial, fair, and equitable treatment. BPAs and TOs must be reserved for high performing BASPs. Accordingly, if the Project determines that any requirement of the BPA or TO is not being met, a BASP may be placed into Dormant Status. Dormant status may be activated for a given Target Area that a BASP has been awarded or Dormant Status may be activated for all Target Areas a BASP has been awarded.

If Dormant Status is activated, the BASP shall not be eligible to participate or compete in any subsequent task order solicitations while the BASP is in Dormant Status; however, BASPs placed in Dormant Status shall continue performance on previously awarded and active task orders, including the exercise of options and modifications at the task order level. Dormant Status is not a Debarment, Suspension, or Ineligibility as defined in FAR Subpart 9.4 or a Termination as defined in FAR Part 49. Dormant Status is a condition that applies to this activity only. Grounds for being placed in Dormant Status specifically include, but are not limited to, trends or patterns of behavior associated with the failure to meet the deliverables and compliances specified under their BPA or TO.

Dormant status will only be imposed after careful consideration of the situation and collaboration with the BASP to resolve the issues. To place a BASP in Dormant Status, the responsible Project authority must first send a letter, in writing, to the BASP regarding the poor performance or non-compliance issue. The BASP shall have reasonable time, at the discretion of the responsible Project authority, to provide a remediation plan to correct the deficiencies/issues. If the responsible Project authority is satisfied with the BASP’s response, the BASP will not be placed in Dormant Status. If the responsible Project authority is not satisfied with the response, or the remediation plan is not effective, the responsible Project authority may issue a final decision, in writing, placing the BASP in a Dormant Status.

* 1. Off Ramping. The Project reserves the unilateral right to Off-Ramp non-performing BASPs in accordance with Section 16 of this Agreement. BASPs that are Off-Ramped have no active task orders under their BPA at the time of the Off-Ramping. BASPs under more than one Target Area will only be off-ramped from the Target Area where the non-performing issues have occurred. Off-ramping methods may result from one of the following conditions:
		1. Permitting the BASPs BPA term to expire without renewing or extending
		2. After a BASP is placed in Dormant Status and the BASP has completed all previously awarded task orders
		3. Debarment, Suspension, or Ineligibility as defined in FAR Subpart 9.4.
		4. Termination as defined in FAR Part 49
		5. BAPSs who fail to meet the standards of performance, deliverables, or compliances
		6. Taking any other action which may be permitted under the BPA terms and conditions

**ANNEX A: LIST OF TARGET AREAS AND SOW**

Details of supplies and/or services that may be supplied under this Agreement:

|  |  |  |  |
| --- | --- | --- | --- |
| **Target Area Number** | **Target Area Description** | **Incentive fee (%) (USD)** | **Minimum Documentation Requirement** |
| *A*  | *Women-owned ICT Businesses in India* | *3.25% of amount mobilized for debt or equity finance* | *1. Pre-approved enterprise engagement**letter.**2. Scoring matrix for the transaction**3. Work plan**4. Completed environmental review form for**the transaction.**5. Evidence of the approval of debt or equity**financing to the enterprises. Evidence may**include duly signed loan offer/acceptance* *documents for debt financing or for equity**financing, a legally binding contract to**invest or a signed letter from the investor**attesting to the value of the transaction and**its execution* |
| *B* |  |  |  |
| *C* |  |  |  |
| *D* |  |  |  |
|  |  |  |  |

***<Scope of Work to be inserted>***

**ANNEX B: ORDERING FORMAT**

Orders issued against this Agreement will be issued using the following format:

 **ANNEX C: TERMS OF THE PRIME CONTRACT**

**C.1.**

(a) Clauses of the Federal Acquisition Regulations (FAR) and United States Agency for International Development FAR Supplement (AIDAR) set forth in the tables below are hereby incorporated by reference in this Agreement with the same force and effect as if they were given in full text, but modified and/or supplemented as indicated in the “Notes” column of each table and as described elsewhere in this Agreement, including (but not limited to) paragraphs (a) through (c) of this Part 1, Section C. The full text of a clause may be accessed electronically at these website addresses:

FAR: <https://www.acquisition.gov/browsefar>

AIDAR: <https://www.usaid.gov/ads/policy/300/aidar>.

Copies of FAR and AIDAR clauses are also available from the Company upon request.

(b) The obligations of “the Seller” to the Government as provided in said clauses shall be deemed to be the obligations of the Seller under this Agreement to the Company. Clauses referenced below shall be those in effect on the effective date of this Agreement; however, Seller shall be automatically bound by any subsequent modifications to such clauses if and to the extent imposed on the Company under the Prime Contract.

(c) Except as otherwise stated in the Agreement or where the context clearly requires otherwise, the terminology of FAR and AIDAR provisions and clauses, ADS provisions, and other USAID and U.S. Government rules and policies that are included in this Agreement and/or incorporated by reference shall be interpreted and applied to this Agreement and to the Seller with their terminology adapted as follows:

1. the terms "Contractor" and “Offeror” shall mean the Seller under this Agreement;
2. the term "Contract" shall mean this Agreement;
3. the term "subcontractor" shall mean a lower-tier subcontractor;
4. the terms "Government," “USAID”, “Mission”, "Contracting Officer," “Administrative Contracting Officer” or (“ACO”), “contracting officer’s representative” (or “COR”), “cognizant technical office”, and equivalent phrases shall mean the Company.
5. All references to approvals, authorizations, decisions, instructions, determinations, and notices (collectively, “approvals”) by any person other than the “Seller” shall be deemed to mean approvals by the Company (which may be subject to, among other things, approvals by USAID). Seller shall direct to the Company all requests for approvals that are required under the terms of this Agreement, including those required from USAID.
6. All references to USAID, U.S. Government or Federal funds, or appropriated funds, shall be deemed to mean the Agreement funds.

**C.2. PROVISIONS OF THE FEDERAL ACQUISITION REGULATION (FAR) INCORPORATED BY REFERENCE:**

The following FAR clauses apply to this Agreement:

| **FAR Clause** | **Title** | **Application** |
| --- | --- | --- |
| FAR 52.202-1 | Definitions (NOV 2013) |  |
| FAR 52.203-3 | Gratuities (Apr 1984) |  |
| FAR 52.203-6 | RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006) | (Applies if this Agreement exceeds $150,000.) |
| FAR 52.203-7 | ANTI-KICKBACK PROCEDURES (MAY 2014) | (Applies if this Agreement exceeds $150,000.) |
| FAR 52.203-12 | LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (OCT 2010) | (Applies if this Agreement exceeds $150,000.) |
| FAR 52.203-13 | CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (OCT 2015) | (Applies if this Agreement exceeds $5,500,000 and the period of performance is more than 120 days. Disclosures made under this clause shall be made directly to the Government entities identified in the clause with copy to the Company.) |
| FAR 52.203-14 | DISPLAY OF HOTLINE POSTER(S) (OCT 2015) | (Applies if this Agreement exceeds $5,500,000. Contact the Palladium Contracting Representative for the location where posters may be contained if not indicated elsewhere in the Agreement. Note 8 applies.) |
| FAR 52.203-16 | PREVENTING PERSONAL CONFLICTS OF INTEREST (DEC 2011) | (Applies if this Agreement exceeds $150,000 where in which Subcontractor employees will perform acquisition functions closely associated with inherently governmental functions (i.e., instead of performance only by a self-employed individual) |
| FAR 52.203-17 | CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (APR 2014) | (Applies if this Agreement exceeds $150,000.) |
| FAR 52.203-19 | PROHIBITION ON REQUIRING CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS (JAN 2017) |  |
| FAR 52.203-99 | PROHIBITION ON CONTRACTING WITH ENTITIES THAT REQUIRE CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS (APR 2015)  |  |
| FAR 52.204-10 | REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (OCT 2018) | (Subparagraph (d)(2) does not apply. If Seller meets the thresholds specified in paragraphs (d)(3) and (g)(2) of the clause, Seller shall report required executive compensation by posting the information to the Government's System for Award Management (SAM) database. All information posted will be available to the general public.) |
| FAR 52.204-14 | SERVICE CONTRACT REPORTING REQUIREMENTS (OCT 2016) | (Information required for first tier subcontractors under paragraph (f) of the clause must be submitted to Company annually by November 1) |
| FAR 52.204-23 | PROHIBITION ON CONTRACTING FOR HARDWARE, SOFTWARE, AND SERVICES DEVELOPED OR PROVIDED BY KASPERSKY LAB AND OTHER COVERED ENTITIES (JUL 2018) | (Seller shall provide Company copies of any reports provided under this clause which relate to the performance of this Agreement.) |
| FAR 52.204-25 | PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (AUG 2019) |  |
| FAR 52.209-6 | PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (OCT 2015) | (Applies if this Agreement exceeds $35,000. Copies of notices provided by Seller to the Contracting Officer shall be provided to Company.) |
| FAR 52.215-14 | INTEGRITY OF UNIT PRICES (OCT 2010) | (Applies if this Agreement exceeds $150,000. Delete paragraph (b) of the clause.) |
| FAR 52.215-15 | PENSION ADJUSTMENTS AND ASSET REVERSIONS (OCT 2010) | (Applies if this Agreement meets the applicability requirements of FAR 15.408(g). Note 5 applies.) |
| FAR 52.215-17 | WAIVER OF FACILITIES CAPITAL COST OF MONEY (OCT 1997) | (Applies only if this Agreement is subject to the Cost Principles at FAR Subpart 31.2 and Seller did not propose facilities capital cost of money in its offer.) |
| FAR 52.215-19 | NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997) | (Applies if this Agreement meets the applicability requirements of FAR 15.408(k). Note 5 applies.) |
| FAR 52.215-23 | LIMITATION ON PASS-THROUGH CHARGES (OCT 2009) | Applies if this is a cost-reimbursement subcontract in excess of $150,000, except if the prime contract to which this contract relates is with DoD, then the clause applies to both cost-reimbursement subcontracts and fixed-price subcontracts, except those identified in 15.408(n)(2)(i)(B)(2), that exceed $750,000. Notes 4 and 6 apply.) |
| FAR 52.219-8 | UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 2018) | (Note 8 applies.) |
| FAR 52.219-9 | SMALL BUSINESS SUBCONTRACTING PLAN (AUG 2018) | (Applies if this Agreement exceeds $700,000 except the clause does not apply if Seller is a small business concern. Note 2 is applicable to paragraph (c) only. Seller's subcontracting plan is incorporated herein by reference. Note 8 applies.) |
| FAR 52.222-3 | Convict Labor (JUN 2003) | If any part is performed in US |
| FAR 52.222-21 | PROHIBITION OF SEGREGATED FACILITIES (APR 2015) | (Note 8 applies.) |
| FAR 52.222-26 | EQUAL OPPORTUNITY (SEP 2016) | (Note 8 applies.) |
| FAR 52.222-29 | NOTIFICATION OF VISA DENIAL (APR 2015) |  |
| FAR 52.222-35 | Equal Opportunity for Veterans (OCT 2015) | Applies if Subcontract is $150,000 or more, but only to employment in the U.S. and recruitment, hiring and other employment decisions made in the U.S.[[1]](#footnote-2) |
| FAR 52.222-36 | Equal Opportunity for Workers with Disabilities (JUL 2014) | Applies if Subcontract exceeds $15,000, but only to employment in the U.S. and recruitment, hiring and other employment decisions made in the U.S.[[2]](#footnote-3) |
| FAR 52.222-37 | Employment Reports on Veterans (FEB 2016) | Applies when 52.222-35 applies. |
| FAR 52.222-40 | Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) | Applies if Subcontract exceeds $10,000, but not if work will be performed entirely outside the U.S. |
| FAR 52.222-50 | COMBATING TRAFFICKING IN PERSONS (MAR 2015) | (Note 2 applies. In paragraph (e) Note 3 applies.) |
| FAR 52.222-54 | EMPLOYMENT ELIGIBILITY VERIFICATION (OCT 2015) | (Applies if this Agreement exceeds $3,500 except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item. Note 8 applies.) |
| FAR 52.223-18 | ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (AUG 2011) | (Applies if this Agreement exceeds $3,500. Note 8 applies.) |
| FAR 52.225-13 | RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008) |  |
| FAR 52.225-25 | PROHIBITION ON CONTRACTING WITH ENTITIES ENGAGING IN CERTAIN ACTIVITIES OR TRANSACTIONS RELATING TO IRAN - REPRESENTATION AND CERTIFICATIONS (OCT 2015) |  |
| FAR 52.227-14 | RIGHTS IN DATA - GENERAL (MAY 2014)  |  |
| FAR 52.228-3 | WORKER’S COMPENSATION INSURANCE (DEFENSE BASE ACT) (JUL 2014) | (All applications must be submitted through Company to USAID’s DBA Provider unless an existing policy is in force. Copy of the DBA coverage must be made available upon request). |
| FAR 52.230-2 | COST ACCOUNTING STANDARDS (OCT 2015) | (Applies only when full CAS coverage applies. "United States" means "United States or Company." Delete paragraph (b) of the clause.) |
| FAR 52.230-3 | DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES (OCT 2015) | (Applies only when modified CAS coverage applies. "United States" means "United States or Company." Delete paragraph (b) of the clause.) |
| FAR 52.230-6 | ADMINISTRATION OF COST ACCOUNTING STANDARDS (JUN 2010) | (Applies if FAR 52.230-2, FAR 52.230-3, FAR 52.230-4 or FAR 52.230-5 applies.) |
| FAR 52.232-40 | PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (DEC 2013) | (Applies if Seller is a small business concern. Note 1 applies. This clause does not apply if Company does not receive accelerated payments under the prime contract. Not all agencies provide accelerated payments.) |
| FAR 52.233-3 | PROTEST AFTER AWARD (AUG 1996) | (In the event Company's customer has directed Company to stop performance of the Work under the Prime Agreement under which this Agreement is issued pursuant to FAR 33.1, Company may, by written order to Seller, direct Seller to stop performance of the Work called for by Purchase Orders under this Agreement. "30 days" means "20 days" in paragraph (b)(2). Note 1 applies except the first time "Government" appears in paragraph (f). In paragraph (f) add after "33.104(h) (1)" the following: "and recovers those costs from Company".) |
| FAR 52.242-13 | BANKRUPTCY (JUL 1995) | (Notes 1 and 2 apply.) |
| FAR 52.242-15 | STOP-WORK ORDER (AUG 1989) | (Notes 1 and 2 apply.) |
| FAR 52.243-1 | CHANGES - FIXED PRICE (AUG 1987) | (Notes 1 and 2 apply. Alternate I applies if this Agreement is for services. Alternate II applies if this Agreement is for supplies and services.) |
| FAR 52.244-5 | COMPETITION IN SUBCONTRACTING (DEC 1996) |  |
| FAR 52.244-6 | SUBCONTRACTS FOR COMMERCIAL ITEMS (OCT 2018) |  |
| FAR 52.246-2 | INSPECTION OF SUPPLIES - FIXED PRICE (AUG 1996) | (Note 2 applies. Note 3 applies, except in paragraph (b) the second time "Government" appears; (f), (h), (j), and (l) where Note 1 applies.) |
| FAR 52.246-4 | INSPECTION OF SERVICES - FIXED PRICE (AUG 1996) | (Note 3 applies, except in paragraphs (e) and (f) where Note 1 applies.) |
| FAR 52.247-63 | PREFERENCE FOR U.S.-FLAG AIR CARRIERS (JUN 2003) | (Applies if this Agreement involves international air transportation.) |
| FAR 52.247-64 | PREFERENCE FOR PRIVATELY OWNED U.S. FLAG COMMERCIAL VESSELS (FEB 2006) |  |
| FAR 52.249-2 | TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (APR 2012) | (Notes 1 and 2 apply. Note 4 applies to the first time "Government" appears in paragraphs (b)(4) and (b)(6), it applies to all of paragraph (b)(8) and it applies to the second time "Government" appears in paragraph (d). In paragraph (n) “Government" means "Company and the Government". In paragraph (c) "120 days" is changed to "60 days." In paragraph (d) "15 days" is changed to "30 days," and "45 days" is changed to "60 days. "In paragraph (e) "1 year" is changed to "6 months." Paragraph (j) is deleted. In paragraph (l) "90 days" is changed to "45 days." Settlements and payments under this clause may be subject to the approval of the Contracting Officer.) |
| FAR 52.249-8 | DEFAULT (FIXED-PRICE SUPPLY AND SERVICE) (APR 1984) | (Notes 1 and 2 apply, except Note 1 is not applicable to paragraph (c). Note 4 applies to the second and third time "Government" appears in paragraph (e). Timely performance is a material element of this Agreement.) |

The following AIDAR clauses apply to this Agreement: **AIDAR 48 CFR CHAPTER 7**

|  |  |  |
| --- | --- | --- |
| **AIDAR Clause** | **Title** | **Application** |
| AIDAR 752.202-1 | DEFINITIONS (JAN 1990) |  |
| AIDAR 752.219-8 | UTILIZATION OF SMALL BUSINESS CONCERNS AND SMALL DISADVANTAGED BUSINESS CONCERNS (MAR 2015) |  |
| AIDAR 752.227-14 | RIGHTS IN DATA—GENERAL (OCT 2007) |  |
| AIDAR 752.7032 | INTERNATIONAL TRAVEL APPROVAL AND NOTIFICATION REQUIREMENTS (APR 2014) |  |
| AIDAR 752.7033 | PHYSICAL FITNESS (JUL 1997) |  |
| AIDAR 752.7037 | CHILD SAFEGUARDING STANDARDS (AUG 2016) |  |
| AIDAR 752.225-70 | SOURCE AND NATIONALITY REQUIREMENTS (FEB 2012) |  |
| AIDAR 752.7013 | CONTRACTOR-MISSION RELATIONSHIPS (JUNE 2018) |  |
| AIDAR 752.7013 | CONTRACTOR-MISSION RELATIONSHIPS. (M/OAA-DEV-AIDAR-18-04c) |  |
| AIDAR 752.7038 | NONDISCRIMINATION AGAINST END-USERS OF SUPPLIES OR SERVICES (OCT 2016) |  |

**C.3. OTHER CLAUSES APPLICABLE TO THE SELLER BY PRESCRIPTION IN THE PRIME CONTRACT**

**AUTHORIZED GEOGRAPHIC CODE**

The authorized geographic code for procurement of goods and services under this contract is 935.

**AIDAR 752.229-71 REPORTING OF FOREIGN TAXES (JULY 2007)**

(a) The Seller must annually submit a report by April 1 of the next year.

(b) Contents of report. The report must contain:

(1) Seller name.

(2) Contact name with phone, fax number and email address.

(3) Contract number(s).

(4) Amount of foreign taxes assessed by a foreign government [each foreign government must be listed separately] on commodity purchase transactions valued at $500 or more financed with U.S. foreign assistance funds under this agreement during the prior U.S. fiscal year.

(5) Only foreign taxes assessed by the foreign government in the country receiving U.S. assistance are to be reported. Foreign taxes by a third-party foreign government are not to be reported. For example, if a Subcontractor performing in Lesotho using foreign assistance funds should purchase commodities in South Africa, any taxes imposed by South Africa would not be included in the report for Lesotho (or South Africa).

(6) Any reimbursements received by the Seller during the period in paragraph (b)(4) of this clause regardless of when the foreign tax was assessed and any reimbursements on the taxes reported in paragraph (b)(4) of this clause received through March 31.

(7) Report is required even if the Seller did not pay any taxes during the reporting period.

(8) Cumulative reports may be provided if the Seller is implementing more than one program in a foreign country.

(c) Definitions. As used in this clause—

(1) Agreement includes USAID direct and country contracts, grants, cooperative agreements and interagency agreements.

(2) Commodity means any material, article, supply, goods, or equipment.

(3) Foreign government includes any foreign governmental entity.

(4) Foreign taxes mean value-added taxes and customs duties assessed by a foreign government on a commodity. It does not include foreign sales taxes.

(d) Where. Submit the reports to: Company Contracting Representative identified on the Cover Page to this Agreement.

(e) For further information see <http://2001-2009.state.gov/s/d/rm/c10443.htm>.

**AIDAR 752.222-70 USAID DISABILITY POLICY (DEC 2004)**

(a) The objectives of the USAID Disability Policy are: (1) To enhance the attainment of United States foreign assistance program goals by promoting the participation and equalization of opportunities of individuals with disabilities in USAID policy, country and sector strategies, activity designs and implementation; (2) To increase awareness of issues of people with disabilities both within USAID programs and in host countries; (3) To engage other U.S. Government agencies, host country counterparts, governments, implementing organizations and other donors in fostering a climate of nondiscrimination against people with disabilities; and (4) To support international advocacy for people with disabilities. The full text of USAID's policy can be found at the following Web site: <http://pdf.usaid.gov/pdf_docs/PDABQ631.pdf>.

(b) USAID therefore requires that the Seller not discriminate against people with disabilities in the implementation of USAID programs and that it make every effort to comply with the objectives of the USAID Disability Policy in performing this contract. To that end and within the scope of the contract, the Seller's actions must demonstrate a comprehensive and consistent approach for including men, women, and children with disabilities.

**AIDAR 752.222-71 NONDISCRIMINATION (JUNE 2012)**

FAR part 22 and the clauses prescribed in that part prohibit contractors performing in or recruiting from the U.S. from engaging in certain discriminatory practices.

USAID is committed to achieving and maintaining a diverse and representative workforce and a workplace free of discrimination. Based on law, Executive Order, and Agency policy, USAID prohibits discrimination in its own workplace on the basis of race, color, religion, sex (including pregnancy and gender identity), national origin, disability, age, veteran's status, sexual orientation, genetic information, marital status, parental status, political affiliation, and any other conduct that does not adversely affect the performance of the employee. USAID does not tolerate any type of discrimination (in 04/22/2016 Partial Revision 93 any form, including harassment) of any employee or applicant for employment on any of the above-described bases.

Contractors are required to comply with the nondiscrimination requirements of the FAR. In addition, the Agency strongly encourages all its contractors (at all tiers) to develop and enforce nondiscrimination policies consistent with USAID's approach to workplace nondiscrimination as described in this clause, subject to applicable law.

**AIDAR 752.231-72 CONFERENCE PLANNING AND REQUIRED APPROVALS (AUG 2013)**

(a) Definitions. Conference means a seminar, meeting, retreat, symposium, workshop, training activity or other such event that requires temporary duty travel of USAID employees. For the purpose of this policy, an employee is defined as a U.S. direct hire; personal services contractor, including U.S. PSCs, Foreign Service National (FSN)/Cooperating Country National (CCN) and Third Country National (TCN); or a Federal employee detailed to USAID from another government agency.

(b) The Seller must obtain approval from Palladium, prior to committing costs related to conferences funded in whole or in part with USAID funds when:

(1) Twenty (20) or more USAID employees are expected to attend.

(2) The net conference expense funded by USAID will exceed $100,000 (excluding salary of employees), regardless of the number of USAID participants.

(c) Conferences approved at the time of award will be incorporated into the award. Any subsequent requests for approval of conferences must be submitted by the Seller to Palladium.

(d) The request for conference approval must include:

(1) A brief summary of the proposed event;

(2) A justification for the conference and alternatives considered, e.g., teleconferencing and videoconferencing;

(3) The estimated budget by line item (e.g., travel and per diem, venue, facilitators, meals, equipment, printing, access fees, ground transportation);

(4) A list of USAID employees attending and a justification for each; and the number of other USAID funded participants (e.g., institutional contractors);

(5) The venues considered (including government-owned facility), cost comparison, and justification for venue selected if it is not the lowest cost option;

(6) If meals will be provided to local employees (a local employee would not be in travel status), a determination that the meals are a necessary expense for achieving Agency objectives; and

(7) A certification that strict fiscal responsibility has been exercised in making decisions regarding conference expenditures, the proposed costs are comprehensive and represent the greatest cost advantage to the U.S. Government, and that the proposed conference representation has been limited to the minimum number of attendees necessary to support the Agency's mission.

**INSURANCE ON PRIVATE AUTOMOBILES**

If the Seller or any of its employees or their dependents transport or cause to be transported (whether or not at expense under this agreement) privately owned automobiles in the country of performance, or they or any of them purchase an automobile within the country of performance, the Seller agrees to make certain that all such automobiles during such ownership within the country of performance will be covered by a paid-up insurance policy issued by a reliable company providing the following minimum coverage or such other minimum coverage as may be set by the Buyer, payable in United States dollars or its equivalent in the currency of the country of performance: injury to persons, $10,000/$20,000; property damage, $5,000.

The premium costs for such insurance shall not be an allowable cost under this agreement. Copies of such insurance policies shall be preserved and made available as part of the Seller’s records which are required to be preserved and made available by the audit and records provisions of this agreement.

**USE OF INFORMATION TECHNOLOGY NOTIFICATION (MAY 2016) (DEVIATION NO. M/OAA-DEV-FAR- 16-1c)**

(a) Definitions. As used in this contract “Information Technology” means (1) Any services or equipment, or interconnected system(s) or subsystem(s) of equipment that are used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the agency; Where (2) such services or equipment are ' used by an agency' if used by the agency directly or if used by a Subcontractor under a contract with the agency that requires either use of the services or equipment or requires use of the services or equipment to a significant extent in the performance of a service or the furnishing of a product. (3) The term “information technology" includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including provisioned services such as cloud computing and support services that support any point of the lifecycle of the equipment or service), and related resources. (4) The term "information technology" does not include any equipment that is acquired by a Contractor or Subcontractor incidental to a contract that does not require use of the equipment.

(b) This special contract requirement applies to the Seller and all personnel providing support under this contract (hereafter referred to collectively as “Subcontractor”) and addresses specific USAID requirements in addition to those included in the Federal Acquisition Regulation (FAR), Privacy Act of 1974 (5 U.S.C. 552a - the Act), the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Pub. L. 104-191, 110 Stat. 1936), the Sarbanes-Oxley Act of 2002 (SOX, Pub. L. 107-204, 116 Stat 745), Federal Information Security Management Act (FISMA) of 2002, Federal Information Technology Acquisition Reform Act (FITARA) and other laws, mandates, or executive orders pertaining to the development and operations of information systems and the protection of sensitive information and data.

The following should not be construed to alter or diminish civil and/or criminal liabilities provided under various laws or mandates.

(c) Notification Requirements: The Federal Information Technology Acquisition Reform Act (FITARA) requires Agency Chief Information Officer (CIO) review and approval of contracts or interagency agreements for information technology or information technology services.

(1) The Contracting Officer’s written confirmation of the Agency CIO approval must be in place prior to starting work on the information technology component(s) of the contract. If approval has not already been obtained, the Subcontractor must work through the Contracting Officer and Contracting Officer Representative (COR) to do so immediately. Please refer to paragraph (3) below for notification procedures.

(2) The Subcontractor shall notify the Contracting Officer in writing whenever it becomes aware that any IT equipment, software or services necessary to meet the Government’s requirement or to facilitate activities in the Government’s Performance Work Statement were not disclosed in the schedule or Performance Work Statement.

(3) As part of the notification, the Subcontractor shall provide the Contracting Officer an estimate of the total cost of the IT equipment, software, and associated services regarding this contract and to obtain approval for procurement, development or modifications. The Subcontractor must notify Palladium.

(4) Except as required by other provisions of this contract, specifically stated to be an exception to this special contract requirement, the Government is not obligated to reimburse the Subcontractor for costs incurred in excess of the IT equipment, software or services specified in the Schedule.

(d) The Subcontractor shall insert the substance of this special contract requirement, including this paragraph (d), in all subcontracts.

**FAR 52.223-99 ENSURING ADEQUATE COVID-19 SAFETY PROTOCOLS FOR FEDERAL CONTRACTORS (OCT 2021)**

Definition. As used in this clause - United States or its outlying areas means—

(1) The fifty States;

(2) The District of Columbia;

(3) The commonwealths of Puerto Rico and the Northern Mariana Islands;

(4) The territories of American Samoa, Guam, and the United States Virgin Islands; and

(5) The minor outlying islands of Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Islands, Navassa Island, Palmyra Atoll, and Wake Atoll.

(b) Authority. This clause implements Executive Order 14042, Ensuring Adequate COVID Safety Protocols for Federal Contractors, dated September 9, 2021 (published in the Federal Register on September 14, 2021, 86 FR 50985).

(c) Compliance. The Subcontractor shall comply with all guidance, including guidance conveyed through Frequently Asked Questions, as amended during the performance of this subcontract, for contractor or subcontractor workplaces published by the Safer Federal Workforce Task Force (Task Force Guidance) at https://www.saferfederalworkforce.gov/contractors/. While at a Prime Contractor (Palladium) or U.S. Government workplace, covered subcontractor employees must also comply with any additional Prime Contractor or agency workplace safety requirements for that workplace that are applicable to federal employees, as amended (see USAID’s COVID-19 Safety Plan and Workplace Guidelines (Safety Plan)).

(d) Subcontracts. The Subcontractor shall include the substance of this clause, including this paragraph (d), in subcontracts at any tier that exceed the simplified acquisition threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award, and are for services, including construction, performed in whole or in part in the United States or its outlying areas.

**Communications with USAID and Other Agencies**

(a) Project communications must be appropriately managed. Therefore, except as otherwise provided in paragraph (b) of this clause, Subcontractor is generally directed to refrain from any direct written or oral communications with USAID, or local agencies relative to this Subcontract. Consistent with this general prohibition, the Company’s Contractual Representative may allow direct written or oral communications through advance written authorization. Should the Contractor be contacted by USAID, or any local agency related to the Works under this subcontract for a report, an update, commentary, or any other purpose, the Contractor shall report the contact or request to the Company’s Chief of Party or Contractual Representative so that the Company can either respond itself or provide authorization to the Contractor to provide a response. Contractor shall provide the Company with a copy of any written authorized communications or if the communications were provided orally, Contractor shall provide the Company with a written summary of the communications made. Contractor is advised that adherence to this clause is considered to be a material requirement of this subcontract. The Company reserves the right to direct the removal Contractor personnel found in violation of this clause and/or terminate the Subcontract for default if Contractor fails to address such violations in timely manner.

(b) The restrictions in paragraph (a) do not apply to any of the communications described in the final paragraph of Section 21, “Non-Disclosure”, in Section B of the Subcontract.

**SECURITY REQUIREMENTS FOR UNCLASSIFIED INFORMATION TECHNOLOGY RESOURCES (APRIL 2018)**

(a) Definitions. As used in this special contract requirement-

“Audit Review” means the audit and assessment of an information system to evaluate the adequacy of implemented security controls, assure that they are functioning properly, identify vulnerabilities and methods for mitigating them and assist in implementation of new security controls where required. These reviews are conducted periodically but at least annually, and may be performed by USAID Bureau for Management, Office of the Chief Information Officer (M/CIO) or designated independent assessors/auditors, USAID Office of Inspector General (OIG) as well as external governing bodies such as the Government Accountability Office (GAO).

“Authorizing Official” means the authorizing official is a senior government official or executive with the authority to formally assume responsibility for operating an information system at an acceptable level of risk to organizational operations and assets, individuals, other organizations, and/or the Nation.

“Information” means any communication or representation of knowledge such as facts, data, or opinions in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual.

“Sensitive” Information or Sensitive But Unclassified (SBU) - Sensitive But Unclassified (SBU) describes information which warrants a degree of protection and administrative control and meets the criteria for exemption from public disclosure set forth under Sections 552 and 552a of Title 5, United States Code: the Freedom of Information Act and the Privacy Act, 12 FAM 540 Sensitive but Unclassified Information (TL;DS-61;10-01-199), and 12 FAM 541 Scope (TL;DS46;05-26-1995). SBU information includes, but is not limited to: 1) Medical, personnel, financial, investigatory, visa, law enforcement, or other information which, if released, could result in harm or unfair treatment to an individual or group, or could have a negative impact upon foreign policy or relations; and 2) Information offered under conditions of confidentiality, arising in the course of a deliberative process (or a civil discovery process), including attorney-client privilege or work product, and information arising from the advice and counsel of subordinates to policy makers.

“National Security Information” means information that has been determined pursuant to Executive Order 13526 or any predecessor order to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form. Classified or national security information is specifically authorized to be protected from unauthorized disclosure in the interest of national defense or foreign policy under an Executive Order or Act of Congress.

“Information Technology Resources” means agency budgetary resources, personnel, equipment, facilities, or services that are primarily used in the management, operation, acquisition, disposition, and transformation, or other activity related to the lifecycle of information technology; acquisitions or interagency agreements that include information technology and the services or equipment provided by such acquisitions or interagency agreements; but does not include grants to third parties which establish or support information technology not operated directly by the Federal Government. (OMB M-15-14)

(b) Applicability: This special contract requirement applies to the Subcontractor, its subcontractors, and all personnel providing support under this contract (hereafter referred to collectively as “Contractor”) and addresses specific USAID requirements in addition to those included in the Federal Acquisition Regulation (FAR), Privacy Act of 1974 (5 U.S.C. 552a - the Act), EGovernment Act of 2002 – Section 208 and Title III, Federal Information Security Management Act (FISMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Pub. L. 104-191, 110 Stat. 1936), the Sarbanes-Oxley Act of 2002 (SOX, Pub. L. 107-204, 116 Stat 745), National Institute of Standards and Technology (NIST), Federal Information Processing Standards (FIPS) and the 800-Series Special Publications (SP), Office of Management and Budget (OMB) memorandums, and other laws, mandates, or executive orders pertaining to the development and operations of information systems and the protection of sensitive information and data.

(c) Compliance with IT Security and Privacy Policies: The Contractor shall be responsible for implementing information security for all information systems procured, developed, deployed, and/or operated on behalf of the US Government. All Contractor personnel performing under this contract and Contractor equipment used to process or store USAID data, or to connect to USAID networks, must comply with Agency information security requirements as well as current Federal regulations and guidance found in the Federal Information Security Modernization Act (FISMA), Privacy Act of 1974, E-Government Act of 2002, Section 208, and National Institute of Standards and Technology (NIST), Federal Information Processing Standards (FIPS) and the 800-Series Special Publications (SP), Office of Management and Budget (OMB) memorandums, and other relevant Federal laws and regulations that are applicable to USAID. The Contractor must comply with the following:

(1) HSPD-12 Compliance

(i) Procurements for services and products involving facility or system access control must be in accordance with HSPD-12 policy and the Federal Acquisition Regulation.

(ii) All development for USAID systems must include requirements to enable the use Personal Identity Verification (PIV) credentials, in accordance with NIST FIPS 201, PIV of Federal Employees and Contractors, prior to being operational or updated.

(2) Internet Protocol Version 6 (IPv6) or current version: This acquisition requires all functionality, capabilities and features to be supported and operational in both a dual-stack IPv4/IPv6 environment and an IPv6 only environment. Furthermore, all management, user interfaces, configuration options, reports and other administrative capabilities that support IPv4 functionality will support comparable IPv6 functionality. The Contractor is required to certify that its products have been tested to meet the requirements for both a dual-stack IPv4/IPv6 and IPv6-only environment. USAID reserves the right to require the Contractor’s products to be tested within a USAID or third party test facility to show compliance with this requirement.

(3) Secure Configurations

(i) The Contractor’s applications must meet all functional requirements and operate correctly as intended on systems using the United States Government Configuration Baseline (USGCB) or the current configuration baseline.

(ii) The standard installation, operation, maintenance, updates, and/or patching of software must not alter the configuration settings from the approved USGCB configuration. The information technology, when applicable, must also use the Windows Installer Service for installation to the default “program files” directory and must be able to silently install and uninstall.

(iii) Applications designed for normal end users must run in the standard user context without elevated system administration privileges.

(iv) The Contractor must apply due diligence at all times to ensure that the required level of security is always in place to protect USAID systems and information, such as using Defense Information Systems Agency Security Technical Implementation Guides (STIGs), common security configurations available from the National Institute of Standards and Technology’s website at https://nvd.nist.gov/ncp/repository or USAID established configuration settings.

(4) FIPS 140 Encryption Requirements: Cryptographic modules used to protect USAID information must be compliant with the current FIPS 140 version and validated by the Cryptographic Module Validation Program (CMVP). The Contractor must provide the validation certificate number to USAID for verification. The Contractor is required to follow government-wide (FIPS 140) encryption standards.

(5) Security Monitoring, Auditing and Alerting Requirements: All Contractor-owned and operated systems that use or store USAID information must meet or exceed standards documented in this contract and in Service Level Agreements and Memorandums of Understanding/Agreements pertaining to security monitoring and alerting. These requirements include but are not limited to: System and Network Visibility and Policy Enforcement at the following levels:

• Edge

• Server / Host

• Workstation / Laptop / Client

• Network

• Application

• Database

• Storage

• User

• Alerting and Monitoring

• System, User, and Data Segmentation

(6) Contractor System Oversight/Compliance

(i) The federal government has the authority to conduct site reviews for compliance validation. Full cooperation by the Contractor is required for audits and forensic analysis.

(ii) The Contractors must afford USAID the level of physical or logical access to the Contractor’s facilities, installations, technical capabilities, operations, documentation, records, and databases to the extent required to support its security and privacy programs. This includes monitoring, inspection, investigation and audits to safeguard against threats and hazards to the integrity, availability and confidentiality of USAID data or information systems operated on behalf of USAID; and to preserve or retrieve evidence in the case of computer crimes.

(iii) All Contractor systems must comply with Information Security Continuous Monitoring (ISCM) and Reporting as defined in a continuous monitoring plan, to include, but not limited to, both automated authenticated and unauthenticated scans of networks, operating systems, applications, and databases. The Contractor must provide a continuous monitoring plan in accordance with NIST standards, as well as scan results upon request or at a minimum monthly to the Prime Contractor, in addition to the CIO at ITAuthorization@usaid.gov. Alternatively, the Contractor may allow USAID information security staff to run scans directly.

(iv) The Contractors must comply with systems development and lifecycle management best practices and processes as defined by Bureau for Management, Office of The Chief Information Officer (M/CIO) USAID IT Project Governance standards and processes for approval of IT projects, for the acceptance of IT project deliverables, and for the project’s progression through its life cycle.

(7) Security Assessment and Authorization (SA&A)

(i) For all information systems procured, developed, deployed, and/or operated on behalf of the US Government information by the provision of this contract, the Contractor must provide a system security assessment and authorization work plan, including project management information, to demonstrate that it complies or will comply with the FISMA and NIST requirements. The work plan must be approved by the Prime Contractor, in consultation with the USAID.

(ii) Prior to deployment of all information systems that transmit, store or process Government information, the contractor must obtain an Authority to Operate (ATO) signed by a USAID Authorizing Official through the Prime Contractor. The Contractor must adhere to current NIST guidance for SA&A activities and continuous monitoring activities thereafter.

(iii) Prior to the SA&A, a Privacy Threshold Analysis (PTA) must be completed using the USAID Privacy Threshold Analysis Template. The completed PTA must be provided to the USAID Privacy Officer or designate to determine if a Privacy Impact Analysis (PIA) is required. If a determination is made that a PIA is required, it must be completed in accordance with the USAID PIA Template, which USAID will provide to the Contractor as necessary. All privacy requirements must be completed in coordination with the Prime Contractor.

(iv) Prior to the Agency security assessment, authorization and approval, the Contractor must coordinate with the Prime Contractor and designated Government personnel as required to complete the FIPS 199 Security categorization and to document the systems security control baseline.

(v) All documentation must be prepared, stored, and managed in accordance with standards, templates and guidelines established by USAID M/CIO. The USAID M/CIO or designee must approve all SA&A requirements.

(vi) In information systems owned or operated by a contractor on behalf of an agency, or for information collected or maintained by or on behalf of the agency, an SA&A must be done independent of USAID, to include the selection of a Federal Risk and Authorization Management Program (FEDRAMP) approved independent Third Party Assessor (3PAO). See approved list of Assessors at https://www.fedramp.gov/ /. The Contractor must submit a signed SA&A package approved by the 3PAO to USAID at saacapackages@usaid.gov at least 60 calendar days prior to obtain the ATO for the IT system. Submissions must be made with copy to the Prime Contractor.

(vii) USAID retains the right to deny or rescind the ATO for any system if it believes the package or system fails to meet the USAID security requirements. Moreover, USAID may or may not provide general or detailed guidance to the Contractor to improve the SA&A package or the overall security posture of the information system and may or may not require re-submission of the package upon completion of the modifications. USAID reserves the right to limit the number of resubmissions at its convenience and may determine a system’s compliance to be insufficient at which time a final determination will be made to authorize or deny operation. USAID is the final authority on the compliance.

(viii) The Contractor must submit SA&A packages to the CIO at least sixty (60) days prior to production or the expiration of the current ATO.

(ix) Once the USAID Chief Information Security Officer or designee determines the risks, the Contractor must ensure that all Plan of Action and Milestones resulting from security assessments and continuous monitoring are remediated within a time frame commensurate with the level of risk as follows:

● High Risk = 30 calendar days;

● Moderate Risk = 60 calendar days; and

● Low Risk = 180 calendar days

(8) Federal Reporting Requirements: Contractors operating information systems on behalf of USAID must comply with FISMA reporting requirements. Monthly, quarterly and annual data collections will be coordinated by USAID. Data collections include but are not limited to, data feeds in a format consistent with Office of Management and Budget (OMB) requirements. The Contractor must provide timely responses as requested by USAID and OMB.

(d) The Contractor shall include the substance of this special contract requirement, including this

paragraph (d), in all subcontracts, including subcontracts for commercial items.

**CLOUD COMPUTING (APRIL 2018)**

(a) Definitions. As used in this special contract requirement-

“Cloud computing” means a model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (e.g., networks, servers, storage, applications, and services) that can be rapidly provisioned and released with minimal management effort or service provider interaction. This includes other commercial terms, such as on-demand self-service, broad network access, resource pooling, rapid elasticity, and measured service. It also includes commercial offerings for software-as-a-service, infrastructure-as-a-service, and platform-as-a-service.

"Federal information" means information created, collected, processed, disseminated, or disposed of by or for the Federal Government, in any medium or form. (OMB A-130)

“Information” means any communication or representation of knowledge such as facts, data, or opinions in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual (Committee on National Security Systems Instruction (CNSSI) 4009).

“Information Security Incident” means an occurrence that (1) actually or imminently jeopardizes, without lawful authority, the integrity, confidentiality, or availability of information or an information system; or (2) constitutes a violation or imminent threat of violation of law, security policies, security procedures, or acceptable use policies.

“Privacy Incident means a violation or imminent threat of violation of security policies, acceptable use policies, or standard security practices, involving the breach of Personally Identifiable Information (PII), whether in electronic or paper format.

“Spillage” means a security incident that results in the transfer of classified or other sensitive or sensitive but unclassified information to an information system that is not accredited, (i.e., authorized) for the applicable security level of the data or information.

“Cloud Service Provider” or CSP means a company or organization that offers some component of cloud computing – typically Infrastructure as a Service (IaaS), Software as a Service (SaaS) or Platform as a Service (PaaS) – to other businesses, organizations or individuals.

“Penetration Testing” means security testing in which assessors mimic real-world attacks to identify methods for circumventing the security features of an application, system, or network. (NIST SP 800-115)

“Third Party Assessment Organizations” means an organization independent of the organization whose IT system is being assessed. They are required to meet the ISO/IEC 17020:1998 standards for independence and managerial competence and meet program requirements for technical FISMA competence through demonstrated expertise in assessing cloud-based solutions.

“Personally Identifiable Information (PII)” means information that can be used to distinguish or trace an individual's identity, such as their name, Social Security Number (SSN), biometric records, etc., alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother’s maiden name, etc. The definition of PII is not anchored to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified. In performing this assessment, it is important to recognize that non-PII can become PII whenever additional information is made publicly available — in any medium and from any source — that, when combined with other available information, could be used to identify an individual. PII examples include name, address, SSN, or other identifying number or code, telephone number, and e-mail address. PII can also consist of a combination of indirect data elements such as gender, race, birth date, geographic indicator (e.g., zip code), and other descriptors used to identify specific individuals. When defining PII for USAID purposes, the term “individual” refers to a citizen of the United States or an alien lawfully admitted for permanent residence.

(b) Applicability: This special contract requirement applies to the Subcontractor and all personnel providing support under this contract (hereafter referred to collectively as “Contractor”) and addresses specific USAID requirements in addition to those included in the Federal Acquisition Regulation (FAR), Privacy Act of 1974 (5 U.S.C. 552a - the Act), E-Government Act of 2002 - Section 208 and Title III, Federal Information Security Management Act (FISMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Pub. L. 104-191, 110 Stat. 1936), the Sarbanes-Oxley Act of 2002 (SOX, Pub. L. 107-204, 116 Stat 745), National Institute of Standards and Technology (NIST), Federal Information Processing Standards (FIPS) and the 800-Series Special Publications (SP), Office of Management and Budget (OMB) memorandums, and other laws, mandates, or executive orders pertaining to the development and operations of information systems and the protection of sensitive information and data.

(c) Limitations on access to, use and disclosure of, Federal information.

(1) The Contractor shall not access, use, or disclose Government data unless specifically authorized by the terms of this contract issued hereunder.

(i) If authorized by the terms of this contract issued hereunder, any access to, or use or disclosure of, Federal information shall only be for purposes specified in this contract.

(ii) The Contractor shall ensure that its employees are subject to all such access, use, and disclosure prohibitions and obligations.

(iii) These access, use, and disclosure prohibitions and obligations shall remain effective beyond the expiration or termination of this contract.

(2) The Contractor shall use related Federal information only to manage the operational environment that supports the Federal information and for no other purpose unless otherwise permitted with the prior written approval of the Prime Contractor.

(d) Records Management and Access to Information

(1) The Contractor shall support a system in accordance with the requirement for Federal agencies to manage their electronic records in accordance with capabilities such as those identified in the provisions of this contract and National Archives and Records Administration (NARA) retention policies.

(2) Upon request by the government, the Contractor shall deliver to the Prime Contractor all Federal information, including data schemas, metadata, and other associated data artifacts, in the format specified in the schedule or by the Prime Contractor in support of government compliance requirements to include but not limited to Freedom of Information Act, Privacy Act, e-Discovery, e-Records and legal or security investigations.

(3) The Contractor shall retain and maintain all Federal information in accordance with records retention provisions negotiated by the terms of the contract and in accordance with USAID records retention policies.

(4) The Contractor shall dispose of Federal information in accordance with the terms of the contract and provide the confirmation of disposition to the Prime Contractor in accordance with contract closeout procedures.

(e) Notification of third party access to Federal information: The Contractor shall notify the Prime Contractor immediately of any requests from a third party for access to Federal information or, including any warrants, seizures, or subpoenas it receives, including those from another Federal, State, or Local agency, that could result in the disclosure of any Federal information to a third party. The Contractor shall cooperate with the Prime Contractor and Government to take all measures to protect Federal information from any loss or unauthorized disclosure that might reasonably result from the execution of any such request, warrant, seizure, subpoena, or similar legal process.

(f) Spillage and Information Security Incidents: Upon written notification by the Government of a spillage or information security incident involving classified information, or the Contractor’s discovery of a spillage or security incident involving classified information, the Contractor shall immediately (within 30 minutes) notify CIO-HELPDESK@usaid.gov and the Office of Security at SECinformationsecurity@usaid.gov to correct the spillage or information security incident incompliance with agency-specific instructions. The Contractor will also notify the Prime Contractor. The Contractor will abide by Prime Contractor or USAID instructions on correcting such a spill or information security incident. For all spills and information security incidents involving unclassified and/or SBU information, the protocols outlined above in section (g) and (h) below shall apply.

(g) Information Security Incidents

(1) Security Incident Reporting Requirements: All Information Security Incidents involving USAID data or systems must be reported in accordance with the requirements below, even if it is believed that the information security incident may be limited, small, or insignificant. USAID will determine the magnitude and resulting actions.

(i) Contractor employees must report via e-mail all Information Security Incidents to the USAID Service Desk immediately, but not later than 30 minutes, after becoming aware of the Incident, at: CIOHELPDESK@usaid.gov, regardless of day or time, as well as the Prime Contractor. Contractor employees are strictly prohibited from including any Sensitive Information in the subject or body of any e-mail concerning information security incident reports. To transmit Sensitive Information, Contractor employees must use FIPS 140-2 compliant encryption methods to protect Sensitive Information in attachments to email. Passwords must not be communicated in the same email as the attachment.

(ii) The Contractor must provide any supplementary information or reports related to a previously reported information security incident directly to CIO-HELPDESK@usaid.gov, upon request. Correspondence must include related ticket number(s) as provided by the USAID Service Desk with the subject line “Action Required: Potential Security Incident”.

(h) Privacy Incidents Reporting Requirements: Privacy Incidents may result in the unauthorized use, disclosure, or loss of personally identifiable information, and can result in the loss of the public's trust and confidence in the Agency’s ability to safeguard personally identifiable information. PII breaches may impact individuals whose PII is compromised, including potential identity theft resulting in financial loss and/or personal hardship experienced by the individual. Contractor employees must report by e-mail all Privacy Incidents to the USAID Service Desk immediately (within 30 minutes), after becoming aware of the Incident, at: CIOHELPDESK@usaid.gov, regardless of day or time, as well as the Prime Contractor. If known, the report must include information on the format of the PII (oral, paper, or electronic.) The subject line shall read “Action Required: Potential Privacy Incident”.

(i) Information Ownership and Rights: USAID information stored in a cloud environment remains the property of USAID, not the Contractor or cloud service provider (CSP). USAID retains ownership of the information and any media type that stores Federal information. The CSP shall only use the Federal information for purposes explicitly stated in the contract. Further, the cloud service provider shall export Federal information in a machine-readable and nonproprietary format that USAID requests at the time of production, unless the parties agree otherwise.

(j) Security Requirements:

(1) The Contractor shall adopt and maintain administrative, technical, operational, and physical safeguards and controls that meet or exceed requirements contained within the Federal Risk and Authorization Management Program (FedRAMP) Cloud Computing Security Requirements Baseline, current standard for NIST 800-53 (Security and Privacy Controls for Federal Information Systems) and Organizations, including Appendix J, and FedRAMP Continuous Monitoring Requirements for the security level and services being provided, in accordance with the security categorization or impact level as defined by the government based on the Federal Information Processing Standard (FIPS) Publication 199 (FIPS-199).

(2) The Contractor shall comply with FedRAMP requirements as mandated by Federal laws and policies, including making available any documentation, physical access, and logical access needed to support this requirement. The Level of Effort for the security assessment and authorization (SA&A) is based on the system’s complexity and security categorization. The Contractor shall create, maintain and update the following documentation using FedRAMP requirements and templates, which are available at https://www.FedRAMP.gov.

(3) The Contractor must support SA&A activities to include assessment by an accredited Third Party Assessment Organization (3PAO) initially and whenever there is a significant change to the system’s security posture in accordance with the FedRAMP Continuous Monitoring Plan. The Contractor must make available to the Contracting Officer, the most current, and any other, Security Assessment Reports for consideration as part of the Contractor’s overall Systems Security Plan.

(4) The Government reserves the right to perform penetration testing or request Penetration Testing by an independent source. If the Government exercises this right, the Contractor shall allow Government employees (or designated third parties) to conduct Security Assessment activities to include control reviews in accordance with FedRAMP requirements. Review activities include but are not limited to scanning operating systems, web applications, databases, wireless scanning; network device scanning to include routers, switches, and firewall, and IDS/IPS; databases and other applicable systems, including general support structure, that support the processing, transportation, storage, or security of Federal information for vulnerabilities.

(5) Identified gaps between required FedRAMP Security Control Baselines and Continuous Monitoring controls and the Contractor's implementation as documented in the Security Assessment Report must be tracked by the Contractor for mitigation in a Plan of Action and Milestones (POA&M) document. Depending on the severity of the gaps, the Government may require them to be remediated before any restricted authorization is issued.

(6) The Contractor is responsible for mitigating all security risks found during SA&A and continuous monitoring activities. All high-risk vulnerabilities must be mitigated within thirty (30) calendar days and all moderate risk vulnerabilities must be mitigated within sixty (60) calendar days from the date vulnerabilities are formally identified. USAID may revoke an ATO for any system if it is determined that the system does not comply with USAID standards or presents an unacceptable risk to the Agency. The Government will determine the risk rating of vulnerabilities.

(7) The Contractor shall provide access to the Federal Government, or their designee acting as their agent, when requested, in order to verify compliance with the requirements and to allow for appropriate risk decisions for an Information Technology security program. The Government reserves the right to conduct onsite inspections. The Contractor must make appropriate personnel available for interviews and provide all necessary documentation during this review and as necessary for continuous monitoring activities.

(k) Privacy Requirements: Cloud Service Provider (CSP) must understand and adhere to applicable federal Privacy laws, standards, and guidance to protect Personally Identifiable Information (PII) about individuals that will be collected and maintained by the Contractor solution. The Contractor responsibilities include full cooperation for any request for disclosure, subpoena, or other judicial process seeking access to records subject to the Privacy Act of 1974.

(l) Data Location: The Contractor must disclose the data server locations where the Agency data will be stored as well as the redundant server locations. The Contractor must have prior Agency approval to store Agency data in locations outside of the United States.

(m) Terms of Service (ToS): The Contractor must disclose any requirements for terms of service agreements and clearly define such terms prior to contract award. All ToS provisions regarding controlling law, jurisdiction, and indemnification must align with Federal statutes, policies, and regulations.

(n) Service Level Agreements (SLAs): The Contractor must be willing to negotiate service levels with USAID; clearly define how performance is guaranteed (such as response time resolution/mitigation time, availability, etc.); monitor their service levels; provide timely notification of a failure to meet the SLAs; and evidence that problems have been resolved or mitigated. Additionally, at the Prime Contractor or USAID’s request, the Contractor must submit reports or provide a dashboard where USAID can continuously verify that service levels are being met. Where SLAs fail to be met, USAID may assess monetary penalties or service credit.

(o) Trusted Internet Connection (TIC): The Contractor must route all USAID traffic through the TIC.

(p) Forensics, Freedom of Information Act (FOIA), Electronic Discovery, or additional Information Requests: The Contractor must allow USAID access required to retrieve information necessary for FOIA and Electronic Discovery activities, as well as, forensic investigations for both criminal and noncriminal purposes without their interference in these activities. The Prime Contractor or USAID may negotiate roles and responsibilities for conducting these activities in agreements outside of this contract.

(1) The Contractor must ensure appropriate forensic tools can reach all devices based on an approved timetable.

(2) The Contractor must not install forensic software or tools without the permission of USAID.

(3) The Contractor, in coordination with USAID Bureau for Management, Office of The Chief Information Officer (M/CIO)/ Information Assurance Division (IA), must document and preserve data required for these activities in accordance with the terms and conditions of the contract.

(4) The Contractor, in coordination with the Prime Contractor and USAID M/CIO/IA, must clearly define capabilities, procedures, roles and responsibilities and tools and methodologies for these activities.

(q) The Contractor shall include the substance of this special contract requirement, including this paragraph (p), in all subcontracts, including subcontracts for commercial items.

**RESTRICTIONS AGAINST DISCLOSURE (MAY 2016)**

(a) The Contractor agrees, in the performance of this contract, to keep the information furnished by the

Government or acquired/developed by the Contractor in performance of the contract and designated by

the Contracting Officer or Contracting Officer's Representative, in the strictest confidence. The

Contractor also agrees not to publish or otherwise divulge such information, in whole or in part, in any

manner or form, nor to authorize or permit others to do so, taking such reasonable measures as are

necessary to restrict access to such information while in the Contractor's possession, to those employees

needing such information to perform the work described herein, i.e., on a “need-to-know” basis. The

Contractor agrees to immediately notify the Contracting Officer in writing in the event that the Contractor

determines or has reason to suspect a breach of this requirement has occurred.

(b) All Contractor staff working on any of the described tasks may, at Government request, be required to

sign formal non-disclosure and/or conflict of interest agreements to guarantee the protection and integrity

of Government information and documents.

(c) The Contractor shall insert the substance of this special contract requirement, including this paragraph

(c), in all subcontracts when requiring a restriction on the release of information developed or obtained in

connection with performance of the contract.

**Source and Nationality REQUIREMENTS; Authorized Geographic Code**

Except as may be specifically approved by the Company, Subcontractor must procure all goods and services under this Subcontract in accordance with AIDAR 752.225-70, “Source and Nationality Requirements”; and 22 CFR Part 228, “Rules on Procurement of Commodities and Services Financed by USAID”. The authorized geographic code for procurement of goods and services is Geographic Code 935, which is any area or country excluding “prohibited sources” (as those terms are defined in 22 CFR Part 228). “Prohibited sources” include countries that are subject to sanctions administered by the U.S. Treasury Department's Office of Foreign Assets Control, such as Libya, Cuba, Iran, North Korea, and Syria. (For a full list of countries subject to OFAC sanctions, see “Sanctions Programs and Country Information” at <https://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>.)

**Language Requirements**

Subcontractor personnel and/or consultants shall have English and foreign language proficiency as needed to perform technical services. The Company reserves the right to test proposed individuals to ensure that they have the required language capability as required by the Subcontract.

**Executive Order on Terrorism Financing**

The Subcontractor is reminded that U.S. Executive Orders (including E.O. 13224) and U.S. law prohibit transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of Subcontractor to ensure compliance with these Executive Orders and laws. In addition to other measures necessary to ensure compliance, Subcontractor shall not employ or hire, engage in any transactions with, or otherwise provide resources or support to, any individuals or entities that appear on either of the following lists: (1) the Specially Designated Nationals and Blocked Persons List maintained by the U.S. Treasury Department’s Office of Foreign Assets Control (online at <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx> ) or the United Nations Security Council’s ISIL (Da'esh) & Al-Qaida Sanctions List (online at <https://www.un.org/sc/suborg/en/sanctions/1267/aq_sanctions_list> ). This clause must be included in all lower-tier subcontracts issued under the Subcontract.

**DEFENSE BASE ACT (DBA) INSURANCE**

In addition to the requirements specified in (48 CFR) FAR 52.228-3, the Subcontractor agrees to the following:

(a) The Subontractor agrees to procure Defense Base Act (DBA) insurance pursuant to the terms of the contract between USAID and USAID’s DBA insurance carrier unless the Contractor has a DBA self insurance program approved by the Department of Labor or has an approved retrospective rating agreement for DBA. The rates and contact information for USAID’s DBA insurance carrier are published in an Acquisition & Assistance Policy Directive found on USAID’s website: https://www.usaid.gov/work-usaid/resources-for-partners. Alternatively, the Contractor can request the rates and contact information from the Contracting Officer.

(b) If USAID or the Subcontractor has secured a waiver of DBA coverage (see (48 CFR) AIDAR 728.305-70(a)) for Subcontractor’s employees who are not citizens of, residents of, or hired in the United States, the Subcontractor agrees to provide such employees with worker’s compensation benefits as required by the laws of the country in which the employees are working, or by the laws of the employee’s native country, whichever offers greater benefits.

**Medical Evacuation (MEDEVAC) Services**

(a) Subcontractor must provide MEDEVAC service coverage to all U.S. citizen, U.S. resident alien, and Third Country National employees and their authorized dependents (hereinafter "individual") while overseas under a USAID-financed subcontract. If the Subcontract is Fixed Price or Fixed Unit Price, all costs associated with MEDEVAC services are included in the Subcontract price(s).

(b) Exceptions.

(i) Subcontractor is not required to provide MEDEVAC insurance to eligible employees and their dependents with a health program that includes sufficient MEDEV AC coverage as approved by the Company (which approval will be subject to prior approval by USAID).

(ii) The USAID Mission Director may make a written determination to waive the requirement for such coverage. The determination must be based on findings that the quality of the medical services or other circumstances obviate the need for such coverage for eligible employees and their dependents located at post.

(c) Subcontractor must insert a clause similar to this clause in all lower-tier subcontracts that require performance by subcontractor employees overseas.

**ENVIRONMENTAL COMPLIANCE**

Upon notification from the Company of USAID environmental documentation governing the Prime Contract that may affect the Subcontract, Subcontractor shall ensure that all applicable requirements of USAID’s environmental regulations at 22 CFR Part 216 and policies and procedures at ADS Chapter 204 are met with respect to the Subcontract, including any requirements to assess, monitor or mitigate environmental impact.

**BRANDING AND MARKING**

Subcontractor shall comply with USAID branding and marking guidance (including ADS 320 and the USAID “Graphic Standards Manual”) in performing the Subcontract work. In addition, the Subcontractor shall comply with the parts of the USAID-approved Branding Implementation Plan and Marking Plan (as amended, if applicable, from time to time) for the Prime Contract that are relevant to such work. A copy of these materials will be furnished to Subcontractor. Subcontractor will also comply with any supplementary guidance provided by USAID or the Company from time to time. Any costs associated with these requirements will not be considered ODCs, and shall not be separately reimbursed pursuant to the Subcontract, unless (and only to the extent) approved by the Company. See also the related requirements in AIDAR 752.7034, “Acknowledgement and Disclaimer (Dec 1991)”.

**MANDATORY DISCLOSURE**

In addition to other disclosures required by this Subcontract, Subcontractor shall immediately disclose in writing to the Company (with subsequent updates as the facts are discovered and remedial actions proceed) whenever, in connection with the award, performance, or closeout of this Subcontract, Subcontractor has credible evidence that a principal, employee, agent, or lower-tier subcontractor of Subcontractor has committed (1) a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or (2) a violation of the civil False Claims Act (31 U.S.C. 3729-3733).

**DEVELOPMENT EXPERIENCE DOCUMENTS AND DATASETS**

The Prime Contract requires the Company to comply with certain requirements relating to preparation, formatting and submission of development experience documents (including studies, assessments, evaluations, technical reports, and annual reports) and “datasets” to USAID pursuant to AIDAR 752.7005, “Submission Requirements for Development Experience Documents” (Sept 2013) and the special contract requirement entitled “[ADS] 302.3.5.21 Submission of Datasets to the Development Data Library (DDL)” (Oct 2014).[[3]](#footnote-4) Performance of these functions will primarily be the Company’s responsibility, and the Company will, unless it notifies Subcontractor otherwise, submit all documents to USAID. To facilitate compliance, Subcontractor agrees to comply with detailed format and other requirements pursuant to the clauses just mentioned and other provisions to be subsequently notified by the Company in writing, and to otherwise assist the Company, upon request, in such manner as the Company may reasonably request. Any costs associated with these requirements shall not be considered ODCs and shall not be separately reimbursed pursuant to the Subcontract.

**PROHIBITION OF ASSISTANCE TO DRUG TRAFFICKERS**.

(a) The Company reserves the right to terminate this Subcontract, to demand a refund, or to take other any appropriate measures if the Subcontractor or a “key individual” of Subcontractor is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking as defined in 22 CFR Part 140.

(b) If the Company notifies Subcontractor of its determination, after consulting with USAID as necessary, that the requirements of 22 CFR Part 140 and ADS 206, “Prohibition of Assistance to Drug Traffickers” apply to the Subcontract, Subcontractor agrees (1) to execute and deliver to the Company any “key individual” or “covered participant” certifications that may be required and (2) to take all other necessary compliance actions.

**TITLE TO AND CARE OF PROPERTY**

If the Company determines that any property acquired by or furnished to Subcontractor under this Subcontract is or must be titled to the U.S. Government or the Cooperating Country, the Company will notify to Subcontractor instructions for compliance with applicable requirements under the Prime Contract, including requirements pertaining to title to and the receipt, use, maintenance, protection, custody, care, inventory, and disposition of such property. Subcontractor shall fully comply with such instructions.

**ORGANIZATIONAL CONFLICTS OF INTEREST**

Subcontractor represents and certifies that it has no actual or potential organizational conflict of interest, as described in FAR Subpart 9.5 and USAID Contract Information Bulletin 99-17, “Organizational Conflicts of Interest” (available online at <https://www.usaid.gov/work-usaid/aapds-cibs/cib-99-17>), with respect to this Subcontract. If after award Subcontractor discovers either an actual or potential organizational conflict of interest, it shall make an immediate and full disclosure in writing to the Company, including a description of the action(s) which the Contractor has taken or proposes to take to avoid, eliminate or neutralize the conflict. The Company shall provide the Subcontractor with written instructions concerning the conflict. The Company reserves the right to terminate the Subcontract if such action is determined to be in the best interest of the Company.

**CERTIFICATIONS AND REPRESENTATIONS**

Seller acknowledges that Company will rely upon Seller certifications and representations, including representations as to business size and socio-economic status as applicable, contained in this clause and in any written offer, proposal or quote, or company profile submission, which results in award of a contract to Seller. By entering into such contract, Seller republishes the certifications and representations submitted with its written offer, including company profile information, and oral offers/quotations made at the request of Company, and Seller makes those certifications and representations set forth below. Seller shall immediately notify Company of any change of status regarding any certification or representation.

**FAR 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (Applicable to solicitations and contracts exceeding $150,000)**

Definitions. As used in this provision—

"Lobbying contact" has the meaning provided at 2 U.S.C. 1602(8).

The terms "agency," "influencing or attempting to influence," "officer or employee of an agency," "person," "reasonable compensation," and "regularly employed" are defined in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12).

Prohibition. The prohibition and exceptions contained in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12) are hereby incorporated by reference in this provision.

Certification. Seller hereby certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this contract.

Disclosure. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, Seller shall complete and submit, with its offer, to Company OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. Seller need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

Penalty. Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by 31 U.S.C. 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to a civil penalty of not less than $10,000, and not more than $100,000, for each such failure.

**FAR 52.209-5 Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters**

(a)(1) Seller certifies, to the best of its knowledge and belief, that—

Seller and/or any of its Principals—

Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;

Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision; and

Seller has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

Have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds $3,500 for which the liability remains unsatisfied.

Federal taxes are considered delinquent if both of the following criteria apply:

The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

Examples.

(i) The taxpayer has received a statutory notice of deficiency, under I.R.C. Sec. 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. Sec. 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

The taxpayer has entered into an installment agreement pursuant to I.R.C. Sec. 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. 362 (the Bankruptcy Code).

(2) Principal, for the purposes of this certification, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division, or business segment; and similar positions).

Seller shall provide immediate written notice to Company if, at any time prior to contract award, Seller learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that Seller knowingly rendered an erroneous certification, in addition to other remedies available, Company may terminate this contract for default.

**FAR 52.222-22 Previous Contracts and Compliance Reports**

Seller represents that if Seller has participated in a previous contract or subcontract subject to the Equal Opportunity clause (FAR 52.222-26): (1) Seller has filed all required compliance reports and (2) that representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

Paragraph (a) applies only to the extent (1) Seller performs work in the United States, or (2) recruits employees in the United States to Work on this Agreement.

**FAR 52.222-25 Affirmative Action Compliance**

Seller represents: (1) that Seller has developed and has on file at each establishment, Affirmative Action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or (2) that in the event such a program does not presently exist, Subcontractor will develop and place in operation such a written Affirmative Action Compliance Program within one-hundred twenty (120) days from the award of this Agreement.

Paragraph (a) applies only to the extent (1) Seller performs work in the United States, or (2) recruits employees in the United States to Work on this Agreement.

**ANNEX D: COMPANY POLICIES AND PROCEDURES**

By signing this Agreement, Seller acknowledges that it has received and read the following policies of the Prime Contractor and agrees to comply fully with such policies in performing this Agreement.

* Business Partner Code of Conduct.
* Child Protection Guidelines.
* [Insert others as required.]

All documents can be downloaded in full at: <http://www.thepalladiumgroup.com/policies>

1. See 41 CFR §60-300.4(a)(3): “*Employment activities within the United States.* This part applies only to employment activities within the United States and not to employment activities abroad. The term “employment activities within the United States” includes actual employment within the United States, and decisions of the contractor made within the United States pertaining to the contractor's applicants and employees who are within the United States, regarding employment opportunities abroad (such as recruiting and hiring within the United States for employment abroad, or transfer of persons employed in the United States to contractor establishments abroad).” [↑](#footnote-ref-2)
2. See 41 CFR § 60-741.4(a)(3), which is identical to the provision quoted in the preceding footnote. [↑](#footnote-ref-3)
3. The text of the second of these clauses is available at <https://www.usaid.gov/sites/default/files/documents/1868/302mas.pdf>. [↑](#footnote-ref-4)