**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 | Olga Wall, Chief Compliance Officer  |
| Company Representative Email | Olga.wall@thepalladiumgroup.com  |
| Company Contracting Representative (Alternate) Name and Title | Nicholas Monahan, Manager, Contracts & Grants |
| Company Representative Email | Nicholas.Monahan@thepalladiumgroup.com  |
|  |
| **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 (if applicable) | Click here to enter text. |
|  |
| Client (“Client”) | U.S. Agency for International Development |
| Prime Contract date and parties (“Head Contract”) |  |
| 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. |
| 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 Any prior understanding, representation or warranty of any kind preceding the date of this Agreement is hereby superseded by this Agreement.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 Purchase 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 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. Agreement Number;
		3. Model Number or National Stock Number (NSN);
		4. Task/Delivery Order Number;
		5. Date of Purchase;
		6. 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
		7. Date of Shipment.
	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 Purchase Order at the price or prices stated in the Purchase Order; any increase in any stated price will only be reflected through a written amendment to the Purchase as 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 Purchase 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. All supplies are to be suitably prepared and packed for shipment so as to secure safe delivery, the lowest transportation rate, and to meet carrier’s requirements unless otherwise called in a Purchase Order, where applicable. No charge will be allowed for packing, crating, or carriage unless stated in the Purchase Order. Each container must be marked to show Buyer’s order number. A packaging sheet showing order number must be included in each package or with each truck load shipment.
6. Shipping
	1. Unless otherwise stated in the Purchase Order, all shipments shall be FOB Destination. Seller will honor all Buyer routing instructions. Instructions may be indicated on the Order, on file with the Seller, or communicated verbally by the Buyer.
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 Purchase 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 Purchase 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 Purchase 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 Purchase Order Number.
10. inspection
	1. All supplies and services ordered under a Purchase 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. Hardware. Seller warrants that all supplies furnished under this Order will:
		1. be free from defects in materials and workmanship;
		2. conform to the applicable specifications, drawings, samples, or other descriptions including marketing collateral;
		3. be free from defects in design except to the degree such supplies are manufactured to Buyer’s design; and
		4. be free of defects in title.
	2. Software. If the product is software and licensed to the Buyer or Buyer’s customers, Seller warrants
		1. that it is the copyright owner or licensee of the copyright owner of the Product and that it has the unqualified right to enter into this Agreement,
		2. the Product is not in the public domain,
		3. the Product does not infringe any copyright, trade secret or other intellectual property right of a third party, and
		4. to the best of Licensor’s knowledge and belief the Product does not infringe any patent right of a third party and that no adverse claims exist relating to any such infringement by the Product.
	3. 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.
	4. 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.
	5. 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 Purchase Order, or any part thereof, and to cancel all or any part of the undelivered portion of the Purchase 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 Purchase 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 Purchase Order in whole or in part at any time by giving notice to Seller in writing. Seller will thereupon immediately stop work on the Purchase Order or the terminated portion thereof and notify any suppliers to do likewise. Seller shall be entitled to:
		1. reimbursement for its actual costs incurred 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 Purchase 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 reimbursed costs: Seller will comply with and be reimbursed for reasonable expenses incurred in affecting Buyer’s direction. Prior to settlement of any 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 14 below then such notice shall be deemed to have been issued “for convenience” and the rights of the parties shall be governed by Section 13.2 above.
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 Purchase 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 Purchase 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 Purchase 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).

**ANNEX A: PRICE LIST OF SUPPLIES/SERVICES**

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

|  |  |  |  |
| --- | --- | --- | --- |
| **Line Item Number** | **Description** | **Unit of Measure** | **Unit Price (inclusive of Tax, if any) (USD)** |
| A.1.  |  |  |  |
| A.2.  |  |  |  |
| A.3.  |  |  |  |
| A.4.  |  |  |  |
| A.5.  |  |  |  |
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| A.10.  |  |  |  |
| A.12.  |  |  |  |
| A.13.  |  |  |  |
| A.14.  |  |  |  |
| A.15.  |  |  |  |

**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 52.203-6 | 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 2020) | (Delete paragraph (b)(2) of the clause.) |
| 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 52.222-21 | 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 52.222-50 | 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 752.7032 | 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 937.

**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.

**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.

FAR 52.204-27 Prohibition on a ByteDance Covered Application.

(a) Definitions. As used in this clause—

Covered application means the social networking service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited.

Information technology, as defined in 40 U.S.C. 11101(6)—

(1) Means any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency, if the equipment is used by the executive agency directly or is used by a Subcontractor under a contract funded by the executive agency that requires the use—

(i) Of that equipment; or

(ii) Of that equipment to a significant extent in the performance of a service or the furnishing of a product;

(2) 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 support services), and related resources; but

(3) Does not include any equipment acquired by Subcontractor incidental to a Federal contract.

(b) Prohibition. Section 102 of Division R of the Consolidated Appropriations Act, 2023 (Pub. L. 117-328), the No TikTok on Government Devices Act, and its implementing guidance under Office of Management and Budget (OMB) Memorandum M-23-13, dated February 27, 2023, “No TikTok on Government Devices” Implementation Guidance, collectively prohibit the presence or use of a covered application on executive agency information technology, including certain equipment used by Federal contractors/subcontractors. The Subcontractor is prohibited from having or using a covered application on any information technology owned or managed by the Government, or on any information technology used or provided by the Subcontractor under this contract, including equipment provided by the Subcontractor’s employees.

**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>