



**African Trade Insurance Agency**  
Agence pour l'Assurance du Commerce en Afrique

## **REQUEST FOR PROPOSALS FOR DESIGN, TRAINING AND IMPLEMENTATION OF A CORPORATE INTRANET**

<b>FD/APU/OBNCS/001/2016</b>
------------------------------

February 2016

***Africa's Trade Credit & Investment Risk Insurer •***

P. O. Box 10620 - 00100, Nairobi - Kenya • Tel +254 20 272 6999 • Fax +254 20 271 9701  
Safaricom: +254 722 205 007 • Airtel: +254 733 625 511  
E-mail: [procurement@ati-aca.org](mailto:procurement@ati-aca.org) • Website: [www.ati-aca.org](http://www.ati-aca.org)

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## LETTER OF INVITATION

### FD/APU/OBNCS/001/2016: REQUEST FOR PROPOSALS FOR DESIGN, TRAINING AND IMPLEMENTATION OF A CORPORATE INTRANET

February 2016

- 1 The African Trade Insurance Agency (hereinafter referred to as "ATI") hereby invites proposals for the service(s) specified in this request for proposals (RFP).
- 2 This RFP includes the letter of invitation together with the annexes and the appendices to these annexes:
  - Annex 1: Terms of Reference
  - Annex 2: Contents of the Proposal to be submitted  
+ Appendix A, B, C, D, E
  - Annex 3: Evaluation Criteria
  - Annex 4: Sample contract
- 3 A bidder requiring any clarification in relation with the bidding documents may notify ATI in writing to the mailing address indicated in these documents. All requests for clarifications must be received by telefax (at the fax number +254 20 2719701) or by electronic mail: [procurement@ati-acca.org](mailto:procurement@ati-acca.org) and copy [Rodgers.siachitema@ati-acca.org](mailto:Rodgers.siachitema@ati-acca.org) no later than 2 weeks before the closing date for receipt of proposals. ATI will respond within a week to all in writing to all prospective requests for clarification or modification of the bidding documents. Written copies of ATI's response (including an explanation of the query but with no indication of its source) will be sent to all prospective bidders that have received the bidding documents.
- 4 **Interested bidders are required to send a blank email to [procurement@ati-acca.org](mailto:procurement@ati-acca.org) with the tender name as the subject matter so that they can receive any addendums that may be issued.**
- 5 At any time before the submission of proposals, ATI may, for any reason, whether at its own initiative or in response to a clarification requested by the Bidder, amend the RFP. The amendment shall be sent in writing by telefax or email to all invited firms and will be binding on them.
- 6 Your proposal must be deposited in the tender box situated on the 5<sup>th</sup> floor, Kenya Re Towers, Upperhill, Nairobi on or before **10<sup>th</sup> March 2016 at 14:30 hours**.
- 7 Proposals should be enclosed in a sealed envelope (with both the technical and the financial proposal in separate sealed envelopes) and addressed to ATI at the address given below.

Each bidder will submit their proposal in one original and four copies: the original proposal must carry the mention "original" and each of the four copies the mention "copy". The technical proposal (one original + four copies) and the financial proposal (one original + five copies) will each be placed in two separate sealed envelopes (the "internal envelopes").

The following mention should appear on each internal envelope:

- (a) the purpose of the bid
- (b) the mention "Technical Proposal" or "Financial Proposal" as the case may be.
- (c) the name and address of the bidder.

The two internal envelopes should be placed together in a large single sealed envelope called "external envelope", which must be anonymous and, carry only the following label on the external envelope:

African Trade Insurance Agency, 5<sup>th</sup> floor, Kenya Re Towers, off Ragati Road, Upperhill, Nairobi

REQUEST FOR PROPOSALS -DO NOT OPEN UNTIL ON BID OPENING DAY

Reference: Design, Training and implementation of Corporate Intranet - (FD/APU/OBNCS/001/2016)

RFP Closing Date and Time: 10<sup>th</sup> March 2016 at 14:30 hours

- 8 It is the sole responsibility of the bidders to ensure that the sealed envelope containing the proposal reaches the above address before the time and date indicated in paragraph 4 above. The proposals must be delivered at the above address during ATI's working hours from 0800 hrs. to 1300 hours and from 1400 hours to 1700 hours Monday through Friday except for holidays observed by ATI. **The proposals must be deposited in the tender box situated at the address indicated above.** Proposals received after the above-mentioned closing time or deadline shall be rejected. If the deadline for submission happens to be a holiday, the proposals will be opened at the same time on the next working day. ATI may extend the deadline for submission of proposals at any time without incurring any liability to the bidders.
- 9 Proposals must be submitted in the English language in One Original + Four Copies (any attachments or appendices and annexes thereto must also be submitted in One Original + Four Copies). Each Technical Proposal and Financial Proposal should be marked - Original or -Copy -as appropriate. The Technical Proposal must include information in sufficient detail to allow ATI to consider whether your company has the necessary capability, experience, knowledge, expertise, and the required capacity to perform satisfactorily the services specified along with any other information that may be requested by Annex 2 of this RFP.
- 10 It is mandatory for the bidders to submit the Financial Proposal by using the bid submission form, attached as Appendix C of this RFP, including a description of the proposed services. Any deviation from the requested requirements (see TOR on Annex 1) shall be highlighted and explained. Please note that ATI will only consider those deviations that have an effect of improving the services requested.
- 11 The evaluation method of the proposal is described in detail in Annex 3. Only bidders, whose technical proposal meet or exceed the minimum qualification points, will be considered for financial evaluation. Proposals that do not satisfy the pass/fail criteria or receive less than the minimum technical score indicated in Annex 3 will be rejected and the bidders will be informed accordingly.

- 12 By submitting the proposal, the bidders confirm that they have taken into account all the documents of this RFP including the addenda (if any), all the annexes and as the case may be, the appendices to annexes. ATI is not bound by any other terms and conditions unless agreed in writing by ATI.
- 13 The prices quoted shall be net free and clear of all applicable taxes including withholding tax duties, fees, levies or indirect taxes. Prices must be expressed in United States Dollars (USD) and payment will be made in USD. However, a separate line should be included to indicate the applicable VAT amount and ATI will obtain a Tax Exemption Certificate from the Kenya Revenue Authority on behalf of the supplier.
- 14 By submitting their bids, each bidder also warrants that they are legally authorized to perform the services and that they are not in default with the tax and social security obligations in Kenya. ATI may, at its sole discretion, ask any bidder to provide documentary evidence establishing the same.
- 15 Proposals should remain valid for a period of not less than ninety (90) days after the deadline date specified for submission.
- 16 ATI will award the contract to the bidder selected in accordance with the evaluation criteria given in Annex 3.
- 17 The Contract shall be governed by the Terms of References (attached in Annex 1 of this RFP), and the General Terms and Conditions (attached as Annex 4 of this RFP). Any such contract will require compliance with all factual statements and representations made in the proposal.
- 18 Notwithstanding the above, ATI reserves the right to amend the content of this RFP and to accept or reject any or all proposals and to cancel the bidding process at any time prior to the award of the contract without incurring any liability to any bidder.
- 19 Please note that it is the policy of ATI that bidders, observe the highest standard of ethics during the procurement process and execution of such contracts. In pursuance of this policy, ATI will reject a bid if it determines that the Bidder has engaged in corrupt or fraudulent practices in competing for the contract in question.
- 20 We look forward to receiving your proposal and thank you for your interest in ATI.

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George Otieno  
**Chief Executive Officer**

## **ANNEX 1: TERMS OF REFERENCE FOR THE DESIGN, TRAINING AND IMPLEMENTATION OF A CORPORATE INTRANET**

### **1. Background & Introduction**

2. The African Trade Insurance Agency (ATI) is multilateral development institution established by African States with the technical and financial support of the World Bank. The African Development Bank recently joined as shareholder and is funding countries to join ATI. ATI's mandate is to promote trade and attract investments in Africa by providing commercial, political risk (investment) insurance, co-insurance, reinsurance and other related financial services.

### **3. Objective**

ATI's objective is to hire a Consultant to design, train staff and implement a Corporate intranet.

### **4. Intranet Specifications**

- 1 Functionality that allows uploading and publishing of General Documents from all service departments i.e. ICT, HR, Administration and Procurement e.g. Staff Manual, ICT Policy, Admin Policy etc.
- 2 Functionality that allows publishing and editing of all Staff members' names, photos, e-mail addresses, roles/titles, extension numbers, mobile phone numbers and Country Offices.
- 3 Functionality that allows publishing and editing of the Organizational Reporting Structure.
- 4 Functionality that allows the HR Department to publish and store memos to Staff.
- 5 Functionality that allows Communications Department to publish their "Briefly Noted News Snippets" instead of sending by e-mail.
- 6 Functionality that allows the Communication Department to publish internal newsletters.
- 7 Functionality that allows Communication Department to upload, publish and store pictures from various events.
- 8 Functionality that allows Communications Department to publish any new "Going Ons" in the Agency e.g. staff meetings (plus upload of minutes), cocktails, staff new born babies, staff bereavement, staff Illness (incase staff would like to visit the ill member of staff – assuming he/she is ok with being visited).
- 9 Functionality to allow staff members to book meeting rooms for their client/ departmental/ management meetings. It will also publish the schedule so that staff members can know exactly which meeting rooms are free beforehand and can therefore plan their meetings accordingly and avoid the awkwardness of meeting room clashes that currently occurs.
- 10 Implement an intuitive and versatile CMS (Content Management System) that allows our internal staff to easily update and edit all intranet content and create new intranet web objects without any prior knowledge of HTML editing. Content should be able to update automatically.
- 11 Functionality to allow users to choose whether to interact with the website either in English or French. Therefore there must be a French version of the intranet.

- 12 Functionality to interface with the Agency's SQL Server Database (SQL Server 2012) and generate pictorial content i.e. Charts, Graphs and Pie Charts showing business performance in Real time.
- 13 Functionality to interface with the Agency's SQL Server Database (SQL Server 2012) and publish details of Staff's Availability i.e. Staff who will be on leave and Staff who will be travelling, plus the respective dates i.e. Leave Start date/Travel departure date, No. of days away and Reporting back dates. The information will be pushed into the SQL database by our HR System that has Travel and Leave Modules.
- 14 Functionality for interaction (spaces like forums and blogs where discussion threads on other topics can be started to connect employees).
- 15 Functionality to allow Staff to view and download fonts, style guides, style templates, brand imagery, logos etc.
- 16 Departmental Web pages for each department i.e. Underwriting, Finance and Membership to allow members of each department to upload, publish and share Meeting Agendas, Meeting Minutes and any other Documents.
- 17 Senior Management Web Page to allow members of the Senior Management team to download Management meeting Agendas, Minutes and other Management level documents. The CEO's PA will be responsible for uploading Management level content.
- 18 Authentication and Authorization must be through Windows Active Directory such that only Senior Management and CEO's PA have access to the Senior Management Web page and only members of each department have access to their respective department's web pages and only authenticated Users have access to the general content of the intranet.
- 19 The solution must be based on Microsoft IIS and Microsoft SharePoint 2013 Standard. We currently have both components installed and commissioned on different servers as the Microsoft SharePoint component is also used by another application (Underwriting System).
- 20 Mobile compatible intranet i.e. compatible for access via smartphones and tablets e.g. Blackberry and iPads over our LAN (Local Area Network).
- 21 Compatibility with all major web browsers i.e. Internet Explorer, Mozilla Firefox, Google Chrome and Safari.
- 22 Train ATI Staff

## ANNEX 2: CONTENTS OF THE PROPOSAL

All submissions must be written in English. The Proposals prepared by the Bidder and all correspondence and documents relating to the Proposal exchanged by the Bidder and ATI shall be written in the English language. Any printed literature furnished by the Bidder written in another language shall be accompanied by English translation of its pertinent passages in which case, for purposes of interpretation of the Proposal, the English translation shall govern. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal should be numbered. Each copy of the proposal should be bound in a single volume where practical. All documentation submitted with the proposal should be bound in that single volume.

### 1. Technical Proposal (Technical Envelope)

- (a) In respect of article 9 of the Letter of Invitation, the bidder must submit the following documents: A statement of conformity (using format as described in Appendix A).
- (b) Proposed solution. This section should demonstrate the Bidder's responsiveness to the Terms of Reference by addressing the requirements, as specified, point by point; and should also include any other value-adding services that were not indicated in the TOR but that the bidder may wish to offer ATI.

S/N	Specification	Bidder's comment (meets spec, does not meet spec)
1	Functionality that allows uploading and publishing of General Documents from all service departments i.e. ICT, HR, Administration and Procurement e.g. Staff Manual, ICT Policy, Admin Policy etc.	
2	Functionality that allows publishing and editing of all Staff members' names, photos, e-mail addresses, roles/titles, extension numbers, mobile phone numbers and Country Offices.	
3	Functionality that allows publishing and editing of the Organizational Reporting Structure.	
4	Functionality that allows the HR Department to publish and store memos to Staff	
5	Functionality that allows Communications Department to publish their "Briefly Noted News Snippets" instead of sending by e-mail	
6	Functionality that allows the Communication Department to publish internal newsletters.	
7	Functionality that allows Communication Department to upload, publish and store pictures from various events.	
8	Functionality that allows Communications Department to publish any new "Going Ons" in the Agency e.g. staff meetings (plus upload of minutes), cocktails, staff new born babies, staff bereavement, staff Illness (incase staff would like to visit the ill member of staff - assuming he/she is ok with being visited).	
9	Functionality to allow staff members to book meeting rooms for their client/departmental/ management meetings. It will also publish the schedule so that staff members can know exactly which meeting rooms are free beforehand and can therefore plan their meetings accordingly and avoid the awkwardness of meeting room clashes that currently occurs.	
10	Implement an intuitive and versatile CMS (Content Management System) that allows our internal staff to easily update and edit all intranet content and create new intranet web objects without any prior knowledge of HTML editing.	



	Content should be able to update automatically.	
11	Functionality to allow users to choose whether to interact with the website either in English or French. Therefore there must be a French version of the intranet.	
12	Functionality to interface with the Agency's SQL Server Database (SQL Server 2012) and generate pictorial content i.e. Charts, Graphs and Pie Charts showing business performance in Real time	
13	Functionality to interface with the Agency's SQL Server Database (SQL Server 2012) and publish details of Staff's Availability i.e. Staff who will be on leave and Staff who will be travelling, plus the respective dates i.e. Leave Start date/Travel departure date, No. of days away and Reporting back dates. The information will be pushed into the SQL database by our HR System that has Travel and Leave Modules	
14	Functionality for interaction (spaces like forums and blogs where discussion threads on other topics can be started to connect employees).	
15	Functionality to allow Staff to view and download fonts, style guides, style templates, brand imagery, logos etc.	
16	Departmental Web pages for each department i.e. Underwriting, Finance and Membership to allow members of each department to upload, publish and share Meeting Agendas, Meeting Minutes and any other Documents	
17	Senior Management Web Page to allow members of the Senior Management team to download Management meeting Agendas, Minutes and other Management level documents. The CEO's PA will be responsible for uploading Management level content.	
18	Authentication and Authorization must be through Windows Active Directory such that only Senior Management and CEO's PA have access to the Senior Management Web page and only members of each department have access to their respective department's web pages and only authenticated Users have access to the general content of the intranet.	
19	The solution must be based on Microsoft IIS and Microsoft SharePoint 2013 Standard. We currently have both components installed and commissioned on different servers as the Microsoft SharePoint component is also used by another application (Underwriting System).	
20	Mobile compatible intranet i.e. compatible for access via smartphones and tablets e.g. Blackberry and iPads over our LAN (Local Area Network).	
21	Compatibility with all major web browsers i.e. Internet Explorer, Mozilla Firefox, Google Chrome and Safari.	

(c) Details of the proposed methodology.

(d) Implementation Plan: The Bidder shall describe the plan of action. Please include:

- a plan outlining the timelines for design, training and implementation of the intranet;
- action items indicating party responsible for implementation [i.e., Bidder or ATI];
- period required to commence services.

(e) Experience and past performance: bidder should provide at least three attestations duly signed by the companies for which the bidder provided similar services. The document should include signatory name, telephone and fax numbers.

(f) Qualification of Proposed personnel: professional experience and educational qualifications for this project (use format as described in Appendix D and D-1).

- ✓ Bidders should provide detailed information on the lead person, attaching his/her curriculum vitae, setting out his/her:

- Suitability for the assignment;
  - Relevant skills and experience;
  - Outline the precise role the lead person will play.
- ✓ For all proposed team members, setting out:
- Suitability of each person for the proposed roles in terms of his/her relevant skills and experience;
  - Professional role that each of them will fulfill in the assignment

## 2. Financial Proposal (Financial envelope)

The financial proposal will include:

- a bid submission form, fully completed and signed (using format as described in **Appendix B**);
- a general table summarizing pricing (**Appendix C**);
- any applicable discount;
- a draft contract initiated on all pages, but not yet signed.

**APPENDIX A: A STATEMENT OF CONFORMITY**  
**(To be included in the Technical Proposal)**

To: The African Trade Insurance Agency  
P.O. Box 10620-00100, Kenya Re  
Towers, Upperhill, Nairobi, **Kenya**

Dear Madam/Sir,

Having examined the Request for Proposals documents **(FD/APU/OBNCS/001/2016)**, we, the undersigned, offer to provide ATI, with the design, training and implementation of an intranet in conformity with the Request for Proposals mentioned above, in the amount indicated in the Price Schedule form included in our Financial Proposal.

We undertake, if our Proposal is accepted, to commence and complete delivery of all services required in this Request for Proposals within the time frame stipulated in our Proposal.

We agree to abide by this proposal for a period of ninety (90) days from the date of the submission of the proposals in the Request for Proposals, and it shall remain binding on us and may be accepted by ATI at any time before the expiration of that period.

Dated

Signature

In the capacity of

Duly authorized to sign this proposal for and on behalf of:

**APPENDIX B: BID SUBMISSION FORM**  
**(To be included in the Financial Proposal)**

To: The African Trade Insurance Agency  
P.O. Box 10620-00100, Kenya Re  
Towers, Upperhill, Nairobi, **Kenya**

Dear Madam, Sir,

Having examined the Request for Proposals **FD/APU/OBNCS/001/2016**, the receipt of which is hereby acknowledged, we the undersigned, offer to provide the requested services in full conformity with the said Request for Proposals in the total amount (free and clear of all taxes) of *[amount in words]*, *[amount in figures]*.

We agree to abide by this proposal, for a period of ninety (90) days from the proposal submission date as stipulated in the Request for Proposals, and it shall remain binding upon us and may be accepted by you at any time before the expiration of that period.

Until a formal contract is prepared and executed between us, this bid, together with your written acceptance thereof and your notification of award shall constitute a binding contract between us.

Dated:

Duly authorized to sign this proposal for and on behalf of:

*[Signature]*

In the capacity of

*[Position]*

**APPENDIX C: PRICE SCHEDULE FORM**

<b>Description</b>	<b>Cost (USD)</b>
Design and implementation and commissioning	
Training	
Total amount	

## APPENDIX D: PERSONNEL CAPABILITIES

Name of Bidder
----------------

The bidder is required to complete this form for key positions who will be in charge of the implementation of the project and who will be the contact person between the bidder and ATI.

The data on their experience should be supplied on separate sheets using one Form D-1 for each proposed staff.

1.	Title of position:
	Name of proposed staff:
2.	Title of position:
	Name of proposed staff:
3.	Title of position:
	Name of proposed staff:
4.	Title of position:
	Name of proposed staff:

## FORM D-1: CANDIDATE SUMMARY

<b>Name of Bidder</b>
-----------------------

Name of proposed staff			
Proposed position			
Professional qualifications			
Preset employment	Name of employer		
	Address of employer		
	Job title		
	Years with employer		

Summarize professional experience in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

From	To	Company/Project/position/relevant technical experience

## APPENDIX E: DECLARATION OF CONFLICT OF INTERESTS AND/OR BANKRUPTCY FOR BIDDERS/CONSULTANTS TEMPLATE

This form is required to be completed by all bidders.

### Notes:

- All potential bidders/Consultants/service providers, including sub-Consultants, members of a consortium, advisers or other associated parties (Relevant Organisation) are required to identify any potential conflicts of interest that could arise if the relevant Organisation were to take part in any procurement process and/or provide services under, or otherwise enter into any contract with ATI.
- The completed form should be sent submitted together with your bid.
- Any changes to interests declared either during the procurement process or during the term of any contract subsequently entered into by the relevant Organisation and ATI must notified to ATI by completing a new declaration form and submitting it to the CEO.
- Relevant Organisations completing this declaration form must provide sufficient detail of each interest so that ATI would be able to understand clearly the sort of financial or other interest the person concerned has and the circumstances in which a conflict of interest with the business or running of ATI might arise.
- If in doubt as to whether a conflict of interests could arise, a declaration of the interests should be made.

Interests that must be declared (whether such interests are those of the relevant Person themselves or of a family member, close friend or other acquaintance of the relevant Person), include the following:

- the relevant Organisation or any person employed or engaged by or otherwise connected with a relevant Organisation (relevant Person) has provided or is providing services or other work for ATI;
- a relevant Organisation or relevant Person is providing services or other work for any other potential bidder in respect of this project or procurement process;
- the Relevant Organisation or any relevant Person has any other connection with ATI, whether personal or professional, which the public could perceive may impair or otherwise influence ATI's or any of its members' or employees' judgements, decisions or actions;
- The relevant organization or person is under bankruptcy.

### Declarations:

<b>Name of Relevant Organisation:</b>		
<b>Interests</b>		
<b>Type of Interest</b>	<b>Details</b>	
Provision of services or other work for ATI		
Provision of services or other work for any other potential bidder in respect of this project or procurement process		
Any other connection with ATI, whether personal or professional, which the public could perceive may impair or otherwise influence ATI's or any of its members' or employees' judgements, decisions or actions		
Bankrupt		

<b>Name of Relevant Person</b>	<i>[complete for all Relevant Persons]</i>	
<b>Interests</b>		
<b>Type of Interest</b>	<b>Details</b>	<b>Personal interest or that of a family member, close friend or other</b>



		<b>acquaintance?</b>
Provision of services or other work for ATI		
Provision of services or other work for any other potential bidder in respect of this project or procurement process		
Any other connection with ATI, whether personal or professional, which the public could perceive may impair or otherwise influence ATI's or any of its members' or employees' judgements, decisions or actions		
Bankrupt		

To the best of my knowledge and belief, the above information is complete and correct. I undertake to update as necessary the information.

Signed:

On behalf of:

Date:

## ANNEX 3: EVALUATION CRITERIA

### 1. DETAILS OF THE EVALUATION

- (a) A pass/fail assessment will be carried out to determine whether the proposals meet the minimum pass/fail criteria indicated below.
- (b) Technical proposals determined to meet the minimum pass/fail criteria shall be evaluated as indicated in clause 3.
- (c) Firms scoring less than 70 points will be rejected and their financial proposals returned unopened.
- (d) The financial evaluation will be carried for bids which have satisfied the minimum technical evaluation score of 70 points.

### 2. PASS/FAIL ASSESSMENT

If the Bidder fails an item they will be disqualified and will not proceed further in the Technical Evaluation.

S/N	PASS/FAIL CRITERIA	YES	NO
	<i>Bidders must meet all the mandatory criteria below. Incomplete responses or lack of response to mandatory requirements will make the offer non-responsive</i>		
1	The bid form (Appendix A) must be completed and signed by a person(s) duly authorized to bind the company to the pricing and contract.		
2	The Bidder must have experience in design and implementation of intranet. Please provide details.		
	The bidder should not have a conflict of interest in relation to the procurement requirement (complete conflict of interest declaration form)		
	Remarks (Accept/Reject for the next Stage)		

### 3. TECHNICAL EVALUATION (Please refer to annex 2 for details)

The evaluation shall be based on the criteria and assigned scores specified below.

S/N	CRITERIA	SCORE
1	Experience and past performance of the firm in similar assignments in the last three years	15
2	Experience of the firm in Microsoft Products i.e Microsoft IIS and Microsoft SharePoint (submit list of clients and year project was carried out)	15
3	Implementation plan	15
4	Qualifications of proposed staff	20
5	Experience of proposed staff in similar assignments	30
6	Proposed training	5
7	Total	100

Bidders who will meet a minimum of 70% technical score will be considered for the next stage and their Financial Proposals will be opened.

The Bidders who fail to do so, or which offers did not comprehensively address this RFP, will have their financial proposal not opened and not evaluated. Financial offer will then be returned to them.

#### **4. FINANCIAL EVALUATION (weight =30%)**

- (a) Bidders obtaining the qualifying minimum technical score will be advised so, and it shall be notified to them (by email or by fax) the date and time of the opening of their financial envelope.
- (b) The financial proposals will first be checked for completeness and corrected for computational errors.
- (c) Detailed financial evaluation will then be carried out. The Bidder making the lowest financial proposal ( $F_m$ ) shall be given 100 points.
- (d) The financial scores of the other Bidders ( $F$ ) shall be computed as follows:

$$SF \text{ (financial score)} = 100 \times F_m / F$$

( $F$  = amount of financial proposal converted in the common currency).

#### **Final Ranking**

Proposals shall finally be ranked according to their combined technical ( $ST$ ) and financial ( $SF$ ) scores using the weights ( $T$  = the weight given to the technical proposal, 70%);  $f$  = the weight given to the financial proposal, 30%;  $T + f = 1$ ) indicated in the above:

$$Final \text{ Score} = Nt \times T\% + Nf \times f\%$$

The bidder making the highest combined score for the base offer will be ranked first, and be eligible for award of the contract.

## **ANNEX 4: CONTRACT**

### **DRAFT CONTRACT DESIGN, TRAINING AND IMPLEMENTATION OF AN INTRANET**

## CONTRACT

This Contract is entered into & between the **African Trade Insurance Agency**, a multilateral financial institution established under Article 102 of the Treaty of the United Nations and enjoying diplomatic privileges and immunities and having its registered office at Kenya Re Towers, 5<sup>th</sup> Floor, Upper Hill off Ragati Road, Nairobi, Kenya of P.O. Box 10620 – 00100 Nairobi, Kenya including its permitted successors and assigns (hereinafter referred to as “ATI”) of the one part and \_\_\_\_\_ (hereinafter referred to as "the Consultant"), having its principal office in ----- & whose address is P.O. Box: \_\_\_\_\_ on the second part.

### PREAMBLE

**WHEREAS** ATI identified a need for the for the design, training and implementation of an intranet.

**Now therefore**, in consideration of the mutual covenants and agreements contained herein and intending to be legally bound, the Parties hereby agree as follows:

#### **Article 1: Purpose of the Contract -Contract Documents - Order of precedence and definitions.**

##### *1.1 Purpose of the Contract*

The Consultant hereby undertakes to carry out the design, training and implementation of an intranet for ATI, as stated in the Contracts documents.

##### *1.2 Contract documents*

The following documents shall constitute the Contract between ATI and the Consultant, and each shall be read and construed as an integral part of the Contract:

- (a) This contract;
- (b) The General and Special Conditions of Contract;
- (c) The Consultant's entire Technical and Financial or Pricing proposals, as accepted by ATI, with its forms and annexes, and ATI's entire Technical Requirements.

##### *1.3 Order of Precedence*

In the event of any ambiguity or conflict between the Contract Documents listed above, the order of preference shall be the order in which the Contract Documents are listed in Article 1.2 (Contract Documents) above, provided that the Special Conditions of Contract shall prevail over all other provisions of the Contract and the other Appendices attached to the contract Agreement and over all the other Contract Documents listed in Article 1.2 above.

##### *1.4 Definitions*

Capitalized words and phrases used in this Contract shall have the same meanings as are ascribed to them in the General Conditions of Contract.

#### **Article 2: Contract Price**

*Contract Price* (Reference GCC Clause 1 (a) (iii) and GCC Clause 10).

ATI hereby agrees to pay to the Consultant the Contract Price in consideration of the Performance by the Consultant of its obligations under the Contract. The Contract Price shall be in United States Dollars as specified in the Price Schedule Form of the Consultant's Proposal. The Contract Price is fixed and shall be understood to reflect the terms and conditions used in the Specification of prices in the detailed price schedules, including the terms and conditions of the associated Incoterms.

### **Article 3: Effective Date for Determining Time for Operational Acceptance**

*Effective Date* (Reference GCC Clause 1 (e) ()).

The time allowed for the design, training and implementation, and achieving Operational Acceptance of the intranet shall be determined from the date the Contract is duly executed for and on behalf of ATI and the Consultant.

### **Article 4: Performance of the Contract and Sub-Contracting**

- 4.1 The Consultant hereby agrees to provide the Services required under this Contract in accordance with the requirements set forth in this Contract and the Terms of Reference. The Consultant undertakes to perform the Services hereunder in accordance with the highest standards of professional competence and integrity in the industry, having due regard for the nature and purposes of ATI as an international organization and to ensure that the employees assigned to perform any Services under this Contract will conduct themselves in a manner consistent therewith. The Services will then be rendered in:-(1) an efficient, safe, courteous and businesslike manner; (2) in accordance with any specific instructions issued from time to time by ATI; and (3) to the extent consistent with the above as economically as sound business judgment warrants. The Consultant shall provide the services of qualified personnel through all stages of the Contract. The Consultant shall promptly replace any member of its team that ATI considers unfit or otherwise unsatisfactory. The Consultant represents and warrants that it is and will remain in compliance with all the applicable laws of any jurisdiction in which the Services shall be performed.
- 4.2 The Consultant may subcontract work relating to the Services (only when the Consultant has notified ATI in writing) to an extent and with such specialists and entities as may be approved in advance by ATI, and shall submit to ATI for prior approval the text of any proposed subcontract and any amendments thereto which may subsequently be proposed. Such notification and approval shall not relieve the Consultant from any liability or obligation under this Contract.
- 4.3 Notwithstanding such approval, the Consultant shall remain responsible for the performance of the Contract in every respect, as primary obligor to ATI regarding the manner and standard of performance of the Services.

### **Article 5: Relationship of the Parties**

Nothing contained in this Contract shall be construed as establishing or creating any special relationship between ATI and the Consultant other than that of independent Consultants. Accordingly, the Consultant hereby agrees that ATI shall accept no liability in contract or in tort or any responsibility for the acts, omissions, errors or negligence of the Consultant and or its employees, agents, subConsultants and subConsultant's employees.

## **Article 6: Effective Date, Expiry, Modifications and Severability**

- 6.1 This Contract shall enter into force upon its signature by the Parties (the date it is signed by the Party signing last in time being "the Effective Date"). Unless terminated, the Contract shall remain in force until the date on which all obligations arising out of or under this Contract have been discharged, in accordance with the provisions of the attached Conditions of Contract.
- 6.2 No changes, modifications or amendments shall be made to this Contract except as may be mutually agreed upon in writing by the Parties.
- 6.3 In the event that any of provisions of this Contract and its attachments is held to be invalid, illegal or unenforceable, the other remaining terms, conditions and provisions shall remain in full force and effect, and the invalid, illegal or unenforceable term or provision shall be replaced by such valid, legal or enforceable term or provision as comes closest to the intention underlying the invalid, illegal or unenforceable term or provision.

## **Article 7: Privileges, Immunities and Exemptions accorded to ATI**

Nothing contained in this Contract shall be construed as or constitute a waiver, renunciation or other modification of any privileges, immunities and exemptions accorded to ATI under the Host Country Agreement signed between ATI and the Government of the Republic of Kenya.

## **Article 8: Fraud and Corruption**

- 8.1 The Consultant represents and warrants that no employee of ATI involved in the award of this Contract, has received, or will receive, directly or indirectly, any benefit or advantage from the Consultant or its Associates, resulting from the award of the Contract or its performance.
- 8.2 If the Consultant or one of its Associates is found to have engaged in any corrupt, fraudulent, coercive and or collusive practice in connection with this Contract, ATI may, in its sole discretion, do any or a combination of the following: (i) declare void or terminate the Contract without liability for payment of the Contract price or any part thereof; (ii) declare the Consultant and its Associates ineligible to contract with ATI or to enter into contracts financed by ATI; and (iii) pursue legal proceedings against the Consultant.
- 8.3 For purposes of this Contract; "Corrupt Practice" means offering, giving, receiving or soliciting, directly or indirectly, anything of value to influence improperly the actions of another. "Fraudulent Practice" means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation. "Coercive Practice" means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party. "Collusive Practice" means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party, including any arrangement among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive ATI of the benefits of free and open competition.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be duly executed in their respective names by their duly authorized representatives, on the respective dates specified below.

For the:

CONSULTANT

For the:

THE AFRICAN TRADE INSURANCE AGENCY

.....

.....

Witnesses :

.....

.....

Date: .....

Date: .....

Place:.....

Place:.....



## **GENERAL CONDITIONS OF CONTRACT (GCC)**

### **A. CONTRACT AND INTERPRETATION**

#### **1. Definitions**

In this Contract, the following terms shall be interpreted as indicated below.

##### **(a) Contract elements**

- (i) "Contract" means the agreement entered into between ATI and the Consultant, together with the Contract Documents. The agreement and the Contract Documents shall constitute the Contract, and the term "the Contract" shall in all such documents be construed accordingly.
- (ii) "Contract Documents" means the following documents:
  - (a) The General Conditions of Contract (GCC)
  - (b) The Special Conditions of contract (SCC)
  - (c) The Technical Requirements
  - (d) The Consultant's Bid and the Price Schedules Forms including any amendments to these Documents.
- (iii) "Contract Price" means the Total Bid Price specified in the Consultant's Bid Form.

##### **(b) Entities**

- (i) "ATI" means the entity, the African Trade Insurance Agency, purchasing the Intranet Solution.
- (ii) "Consultant" means the person(s) whose bid to perform the Contract has been accepted and is named as such in the Contract Agreement and includes the legal successors or permitted assigns of the Consultant.
- (iii) "Consultant's Representative" means any person nominated by the Consultant and named as such in the Contract Agreement and approved by ATI in the manner provided in GCC Clause 15.2 (Consultant's Representative) to perform the duties delegated by the Consultant.
- (iv) "SubConsultant," means any person to whom any of the obligations of the Consultant is subcontracted directly or indirectly by the Consultant and includes its legal successors or permitted assigns.

##### **(c) Subject**

- (i) "Services" means all technical, logistical, management, and any other Services to be provided by the Consultant under the Contract to design, customize, integrate, train and implement the intranet and make operational the intranet.
- (ii) "Source Code" means the database structures, dictionaries, definitions, program source

files, and any other symbolic representations necessary for the compilation, execution, and subsequent maintenance of the Intranet

- (iii) "Intellectual Property Rights" means any and all copyright, trademark, patent, and other intellectual and proprietary rights, title and interests worldwide, whether vested, contingent, or future, including without limitation all economic rights and all exclusive rights to reproduce, fix, adapt, modify, translate, create derivative works from, extract or re-utilize data from, manufacture, introduce into Circulation, publish, distribute, sell, license, sublicense, transfer, rent, lease, transmit or provide access electronically, broadcast, display, enter into computer memory, or otherwise use any portion or copy, in whole or in part, in any form, directly or indirectly, or to authorize or assign others to do so.

(d) **Activities**

- (i) "Pre-commissioning" means the testing, checking, and any other required activity that are to be carried out by the Consultant in preparation for Commissioning of the System as provided in the General Conditions of Contract (hereafter GCC) Clause 23.
- (ii) "Commissioning" means operation of the Intranet by the Consultant following Installation, which operation is to be carried out by the Consultant.
- (iii) "Operational Acceptance" means the acceptance by ATI of the Intranet.

(e) **Place and Time**

- (i) The contract becomes effective upon signature by both parties.
- (ii) "Contract Period" is the time period during which this Contract governs the relations and obligations of ATI and Consultant in relation to the System, as specified in the SCC.
- (iii) "Defect Liability Period" (also referred to as the "Warranty Period") means the period of validity of the warranties given by the Consultant commencing at date of the Operational Acceptance Certificate of the Intranet during which the Consultant is responsible for defects with respect to the operation of the Intranet and other related services.

## **2. Interpretation**

### **2.1. Language**

Unless otherwise agree, all Contract Documents, all correspondence, and communications to be given shall be written in the language specified in the Special Conditions of Contract (hereafter SCC), and the Contract shall be construed and interpreted in accordance with that language.

### **2.2. Independent Consultant**

The Consultant shall be an independent Consultant performing the Contract. The Contract does not create any agency, partnership, joint venture, or other joint relationship between the parties to the Contract.

All employees, representatives, or SubConsultants engaged by the Consultant in connection with the performance of the Contract shall be under the complete control of the Consultant and shall not be deemed to be employees of ATI, and nothing contained in the Contract or in any subcontract awarded by the Consultant shall be construed to create any contractual relationship between any such employees, representatives, or SubConsultants and ATI.

### **3. Notices**

Unless otherwise stated in the Contract, all notices to be give under the Contract shall be in writing and shall be sent by personnel delivery, special express courier, facsimile, email to the address of the relevant party as specified in the SCC.

### **4. Governing Law**

The Contract shall be governed by and interpreted in accordance with the laws of the country specified in the SCC.

### **5. Settlement of Disputes**

#### **5.1. Amicable settlement**

If any dispute of any kind whatsoever shall arise between ATI and the Consultant in connection with or arising out of the Contract, including without prejudice to the generality of the foregoing, any question regarding its existence, validity, or termination, or the operation of the Intranet, the parties shall seek to resolve any such dispute or difference by mutual consultation. If the parties fail to resolve such a dispute or difference by mutual consultation, within fourteen (14) days after one party has notified the other in writing of the dispute or difference, then the dispute can be referred to arbitration.

#### **5.2. Arbitration**

Any dispute, controversy or claim arising out of or in relation to this Contract or the breach, termination or invalidity thereof, that cannot be settled amicably, may be submitted to arbitration by either party, in accordance with the UNCITRAL Arbitration Rules as at present in force.

## **B. SUBJECT MATTER OF CONTRACT**

### **6. Scope of the Intranet**

6.1. Unless otherwise expressly limited in the SCC or Technical Requirements, the Consultant's obligations cover the performance of all Services required for the design, development, and implementation (quality assurance, Testing, and Commissioning) of the Intranet , in accordance with the plans, specifications, and any other documents specified in the Contract.

6.2. The Consultant shall, unless specifically excluded in the Contract, perform all such work and/or supply all such items and Materials not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining Operational Acceptance of the Intranet as if such work and/or items and Materials were expressly mentioned in the Contract. If such work is considered by both parties as a major deviation from the scope, then

both parties shall agree on an equitable adjustment.

## **7. Time for Commencement and Operational Acceptance**

- 7.1 The Consultant shall commence work on the System within the period specified in the SCC and the Consultant shall thereafter proceed with the System in accordance with the time schedule specified in the Implementation Schedule in the Technical Requirements Section and any refinements made in the Agreed and Finalized Project Plan.
- 7.2 The Consultant shall achieve Operational Acceptance of the Intranet within the time specified in the contract.

## **8. Consultant's Responsibilities**

- 8.1 The Consultant shall conduct all contracted activities with due care and diligence, in accordance with the Contract and with the skill and care expected of a competent provider of the Intranet Solution, training, and other related services, or in accordance with best industry practices. In particular, the Consultant shall provide and employ only technical personnel who are skilled and experienced in their respective callings and supervisory staff who are competent to adequately supervise the work at hand.
- 8.2 The Consultant shall comply with all laws in force in Kenya. The laws will include all laws that affect the performance of the Contract and are binding upon the Consultant. The Consultant shall indemnify and hold harmless ATI from and against any and all liabilities, damages, claims, fines, penalties, and expenses of whatever nature arising or resulting from the violation of such laws by the Consultant or its personnel, including the SubConsultants and their personnel, but without prejudice to GCC Clause 9.1.

## **9. ATI's Responsibilities**

- 9.1 ATI shall ensure the accuracy of all information and/or data to be supplied by ATI to the Consultant, except when otherwise expressly stated in the Contract.
- 9.2 ATI will designate appropriate staff for the training courses to be given by the Consultant and shall make all appropriate logistical arrangements for such training as specified in the Technical Requirements, SCC, the Agreed and Finalized Project Plan, or other parts of the Contract.
- 9.3 ATI will take all reasonable steps to obtain and provide to the Consultant all required consents necessary for the Consultant to provide the Services described in this Contract. A required consent means any consents or approvals required to give to the Consultant and its authorized subConsultants the right or license to access, use and/or modify (including creating derivative works) the hardware, software, firmware and other products that ATI uses, without infringing the ownership or license rights (including patent and copyright) of the providers and owners of such products".

## **C. PAYMENT**

### **10. Contract Price**

- 10.1 The Contract Price shall be as specified in the signed Bid Form

10.2 The Contract Price shall be a firm lump sum not subject to any alteration, except in the event of a Change in the Intranet design.

10.3 The Consultant shall be deemed to have satisfied itself as to the correctness and sufficiency of the Contract Price, which shall, except as otherwise provided for in the Contract, cover all its obligations under the Contract.

#### **11. Terms of Payment**

11.1 The Consultant's request for payment shall be made to ATI in writing, accompanied by an invoice describing, as appropriate, the services provided and upon fulfillment of other obligations stipulated in the Contract.

The Contract Price shall be paid as specified in the SCC.

11.2 No payment made by ATI herein shall be deemed to constitute acceptance by ATI of the Intranet.

11.3 All payments shall be made in the currencies specified in the Contract, pursuant to GCC Clause 10.

#### **12. Securities**

12.1 The Consultant may, if it wishes receive an advance payment of no more than twenty (20) percent of the Contract Price against delivery of an Advance Payment Security.

12.2 The security shall be in the form provided as an annex of this contract or in another form acceptable to ATI. The amount of the security shall be reduced in proportion to the value of the Intranet executed by and paid to the Consultant from time to time and shall automatically become null and void when the full amount of the advance payment has been recovered by ATI. The security shall be returned to the Consultant immediately after its expiration.

#### **13. Taxes and Duties**

Payments made to the Consultant will be exclusive of taxes since ATI is exempt from paying taxes in Kenya.

### **D. INTELLECTUAL PROPERTY**

#### **14. Agreements and Confidential Information**

14.1 ATI will have all rights, title and interest (including ownership of copyright and other Intellectual Property rights) in all of materials created and delivered to ATI by the Consultant. The Consultant warrants that it will deliver all materials created under this Contract, to ATI, and will not retain any copies of such materials, or use, give or permit such materials to be given to, or used by any third party without obtaining the prior written consent of ATI. Except to the extent that the Intellectual Property Rights in the Software vest in ATI, the Consultant hereby grants to ATI license to access and use the Software, including all inventions, designs, and marks embodied in the Software. Such license to access and use the Software shall be:

- (a)
  - (i) Valid throughout the territory of ATI's Member Country States and in any other country where ATI maintains an office or rent facilities for its operations (or such other territory as specified in the SCC)
  - (ii) Subject to additional restrictions (if any) as specified in the SCC.
- (b) Permit the Software to be:
  - (i) reproduced for safekeeping or backup purposes;
  - (ii) customized, adapted, or combined with other computer software for use by ATI;
  - (iii) disclosed to, and reproduced for use by, support service Consultants and their subConsultants, (and ATI may sublicense such persons to use and copy for use the Software) to the extent reasonably necessary to the performance of their support service contracts, subject to the same restrictions as are set forth in this Contract;

14.2 ATI and the Consultant shall each keep confidential and shall not, without the prior written consent of the other party to this Contract divulge to any third party any documents, data, or other information (all information being regarded as "Confidential Information"), whether such information has been furnished or generated or discovered prior to, during, or following termination of the Contract. The provisions of this Clause shall survive the termination, for whatever reason, of the contractual.

## **E. DESIGN, TESTING, COMMISSIONING, AND ACCEPTANCE OF THE INTRANET**

### **15. Representatives**

#### **15.1 Project Manager**

ATI's Project Manager is named in the SCC. ATI may from time to time appoint some other person as the Project Manager in place of the person previously so appointed and shall give a notice of such change to the Consultant without delay.

#### **15.2 Consultant's Representative**

15.2.1 The Consultant's Representative is named in the SCC.

15.2.2 Subject to the extensions and/or limitations specified in the SCC (if any), the Consultant's Representative shall have the authority to represent the Consultant on all day-to-day matters relating to the Project or arising from the Contract. The Consultant's Representative shall give to the Project Manager all the Consultant's notices, instructions, information, and all other communications under the Contract.

### **16. Project Plan**

16.1 In close cooperation with ATI and based on the Preliminary Project Plan included in the Consultant's bid, the Consultant shall develop a Project Plan encompassing the activities specified in the Contract. The contents of the Project Plan shall be as specified in the SCC and/or Technical Requirements.

- 16.2 The Consultant shall undertake to supply, install, test, and commission the System in accordance with the Agreed and Finalized Project Plan and the Contract.

## **17. Subcontracting**

If applicable, a List of Approved SubConsultants attached to the Contract shall specify critical items of supply or services and a list of SubConsultants for each item that are considered acceptable by ATI.

## **18. Design**

### **18.1 Technical Specifications**

The Consultant shall execute the design and the implementation activities necessary for successful implementation of the Intranet Solution in compliance with the provisions of the Contract or, where not so specified, in accordance with good industry practice. The Consultant shall be responsible for any discrepancies, errors or omissions in the specifications and other technical documents that it has prepared, whether such specifications, drawings, and other documents have been approved by the Project Manager or not, provided that such discrepancies, errors, or omissions are not because of inaccurate information furnished in writing to the Consultant by or on behalf of ATI.

## **19. Product Upgrades**

- 19.1 At any point during performance of the Contract, should technological advances be introduced by the Consultant products originally offered by the Consultant in its bid and still to be delivered, the Consultant shall be obligated to offer to ATI the latest models of the available Intranet Solution having equal or better performance or functionality at the same or lesser unit prices.
- 19.2 At any point during performance of the Contract, for Intranet solution still to be delivered, the Consultant will also pass on to ATI any cost reductions and additional and/or improved support and facilities that it offers to other clients of the Consultant.
- 19.3 During the Warranty Period unless otherwise specified in the SCC, the Consultant shall provide and install at no additional cost (i.e. labor, software and incidental costs) to ATI all new versions, releases, and updates for all Software that are used in the Intranet solution, within thirty (30) days of their availability from the Consultant, and no later than three (3) months after they are released in the country of origin of the Software. ATI shall allow the introduction of all new versions, releases or updates of the Software provided that the new version, release, or update does not adversely affect current Intranet Infrastructure System operation or performance or require extensive reworking of the Intranet System. In cases where the new version, release, or update adversely affects current Intranet System operation or performance, or requires extensive reworking of the System, the Consultant shall continue to support and maintain the version or release previously in operation for as long as necessary to allow introduction of the new version, release, or update.

## **20. Operational Acceptance**

### **20.1 Operational Acceptance Tests**

- 20.1.1 The Operational Acceptance Tests (and repeats of such tests) shall be conducted with the full cooperation of the Consultant during Commissioning of the Intranet to ascertain whether the System conforms to the Technical Requirements and meets the standard of performance quoted in the Consultant's bid.
- 20.1.2 The Consultant guarantees that, once the Operational Acceptance Certificate(s) has been issued, the Intranet System represents a complete solution to ATI's requirements set forth in the Technical Requirements and it conforms to all other aspects of the Contract.

## **21. Force Majeure**

- 21.1 "Force Majeure" shall mean any event beyond the reasonable control of ATI or of the Consultant, as the case may be, and which is unavoidable notwithstanding the reasonable care of the party affected and shall include, without limitation, the following: War, rebellion, revolution, insurrection, mutiny, usurpation of civil or military government, conspiracy, riot, civil commotion, and terrorist acts etc.
- 21.2 If either party is prevented, hindered, or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances of the event of Force Majeure within fourteen (14) days after the occurrence of such event.
- 21.3 The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party's performance is prevented, hindered, or delayed. The Time for Achieving Operational Acceptance shall be extended in accordance.

## **22. Termination**

- 22.1 Termination for ATI's Convenience
- 22.1.1 ATI may at any time terminate the Contract for any reason by giving the Consultant a notice of termination that refers to this GCC Clause 22.1.
- 22.1.2 Upon receipt of the notice of termination under GCC Clause 22.1 .1, the Consultant shall either as soon as reasonably practical or upon the date specified in the notice of termination:
- (a) cease all further work, except for such work as ATI may specify in the notice of termination for the sole purpose of protecting that part of the System already executed, or any work required to leave the site in a clean and safe condition;
  - (b) In addition, the Consultant shall:
    - (i) deliver to ATI the parts of the Intranet executed by the Consultant up to the date of termination;
    - (ii) to the extent legally possible, assign to ATI all right, title, and benefit of the Consultant to the Intranet, as at the date of termination, and as may be required by ATI, in any subcontracts concluded between the Consultant and its SubConsultants;
    - (iii) Deliver to ATI all non-proprietary specifications, and other documents prepared by



the Consultant or its SubConsultants as of the date of termination in connection with the System.

22.1.3 In the event of termination of the Contract under GCC Clause 22.1.1, ATI shall pay to the Consultant the following amounts: the Contract Price, properly attributable to the parts of the Intranet System executed by the Consultant as of the date of termination;

## 22.2 Termination for Consultant's Default

22.2.1 ATI, without prejudice to any other rights or remedies it may possess, may terminate the Contract forthwith in the following circumstances by giving a notice of termination and its reasons therefore to the Consultant, referring to this GCC Clause 22.2:

- (a) if the Consultant becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, if the Consultant is a corporation, a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the Consultant takes or suffers any other analogous action in consequence of debt;
- (b) if the Consultant assigns or transfers the Contract or any right or interest without authorization; or
- (c) if the Consultant, in the judgment of ATI, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract, including but not limited to willful misrepresentation of facts concerning ownership of Intellectual Property Rights in, or proper authorization and/or licenses from the owner to offer, materials provided under this Contract.

For the purposes of this Clause:

"corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution, and includes, inter alia, bribery and extortion or coercion which involve threats of injury to person, property or reputation; and

"Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of ATI, and includes collusive practices among bidders or between bidders and Purchaser (prior to or after bid submission) designed to establish bid prices at artificial, noncompetitive levels.

### 22.2.2 If the Consultant:

- (a) has abandoned or repudiated the Contract;
- (b) has without valid reason failed to commence work on the Intranet promptly;
- (c) persistently fails to execute the Contract in accordance with the Contract or persistently neglects to carry out its obligations under the Contract without just cause;

then ATI may, without prejudice to any other rights it may possess under the Contract, give a notice to the Consultant stating the nature of the default and requiring the Consultant to remedy

the same. If the Consultant fails to remedy or to take steps to remedy the same within fourteen (14) days of its receipt of such notice, then ATI may terminate the Contract forthwith by giving a notice of termination to the Consultant that refers to this GCC Clause 22.2.

22.2.3 Upon receipt of the notice of termination under GCC Clauses 22.2.1 or 22.2.2, the Consultant shall, either immediately or upon such date as is specified in the notice of termination:

- (a) cease all further work, except for such work as ATI may specify in the notice of termination for the sole purpose of protecting that part of the Intranet System already executed;
- (b) terminate all subcontracts, except those to be assigned to ATI pursuant to Paragraph 22.2.3 (d) below;
- (c) deliver to ATI the parts of the Intranet System executed by the Consultant up to the date of termination;
- (d) to the extent legally possible, assign to ATI all right, title and benefit of the Consultant to the Intranet System or Subsystems as at the date of termination, and, as may be required by ATI, in any subcontracts concluded between the Consultant and its SubConsultants;
- (e) deliver to ATI all specifications, and other documents prepared by the Consultant or its SubConsultants as at the date of termination in connection with the Intranet System.

22.2.4 ATI may expel the Consultant, and complete the Intranet System itself or by employing any third party.

22.2.5 Subject to GCC Clause 22.2.6, the Consultant shall be entitled to be paid the Contract Price attributable to the portion of the Intranet System executed as at the date of termination. Any sums due ATI from the Consultant accruing prior to the date of termination shall be deducted from the amount to be paid to the Consultant under this Contract.

22.2.6 If ATI completes the Intranet, the cost of completing the Integrated Solution by ATI shall be determined. If the sum that the Consultant is entitled to be paid, pursuant to GCC Clause 22.2.5, plus the reasonable costs incurred by ATI in completing the Intranet Solution, exceeds the Contract Price, the Consultant shall be liable for such excess. If such excess is greater than the sums due the Consultant under GCC Clause 22.2.5, the Consultant shall pay the balance to ATI, and if such excess is less than the sums due the Consultant under GCC Clause 22.2.5, ATI shall pay the balance to the Consultant. ATI and the Consultant shall agree, in writing, on the computation described above and the manner in which any sums shall be paid.

## 22.3 Termination by Consultant

22.3.1 If:

- (a) ATI has failed to pay the Consultant any sum due under the Contract within the specified period, has failed to approve any invoice or supporting documents without just cause, or commits a substantial breach of the Contract, the Consultant may give a notice to ATI that requires payment of such sum, requires approval of such invoice or supporting documents, or specifies the breach and requires ATI to remedy the same, as the case may be. If ATI fails to pay such sum, fails to approve such invoice or

supporting documents or give its reasons for withholding such approval, fails to remedy the breach or take steps to remedy the breach within thirty (30) days after receipt of the Consultant's notice; or

- (b) the Consultant is unable to carry out any of its obligations under the Contract for any reason attributable to ATI, including but not limited to ATI's failure to provide possession of or access to the site;

then the Consultant may give a notice to ATI of such events, and if ATI has failed to pay the outstanding sum, to approve the invoice or supporting documents, to give its reasons for withholding such approval, or to remedy the breach within twenty-eight (28) days of such notice, or if the Consultant is still unable to carry out any of its obligations under the Contract for any reason attributable to ATI within twenty-eight (28) days of the said notice, the Consultant may by a further notice to ATI referring to this GCC Clause 22.3.1, forthwith terminate the Contract.

22.3.2 If the Contract is terminated under GCC Clauses 22.3.1 then the Consultant shall immediately:

- (a) cease all further work, except for such work as may be necessary for the purpose of protecting that part of the Intranet System already executed, or any work required to leave the site in a clean and safe condition;
- (b) terminate all subcontracts, except those to be assigned to ATI pursuant to Clause 23.3.3 (d) (ii);
- (c) remove all Consultant's equipment and personnel from the site.
- (d) In addition, the Consultant, subject to the payment specified in GCC Clause 22.3.3, shall:
  - (i) deliver to ATI the parts of the Intranet executed by the Consultant up to the date of termination;
  - (ii) to the extent legally possible, assign to ATI all right, title, and benefit of the Consultant to the Intranet, or Subsystems, as of the date of termination, and, as may be required by ATI, in any subcontracts concluded between the Consultant and its SubConsultants;
  - (iii) to the extent legally possible, deliver to ATI all specifications, and other documents prepared by the Consultant or its SubConsultants as of the date of termination in connection with the Intranet.

## **23. Assignment**

The Consultant shall not, without the express prior written consent of ATI, assign to any third party the Contract or any part thereof, or any right, benefit, obligation, or interest therein or there under, except that the Consultant shall be entitled to assign either absolutely or by way of charge any monies due and payable to it or that may become due and payable to it under this Contract.

## **SPECIAL CONDITIONS OF CONTRACT (SCC)**

The following Special Conditions of Contract (SCC) shall supplement or amend the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions of the SCC shall prevail over those in the GCC. For the purposes of clarity, any referenced GCC clause numbers are indicated in the left column of the SCC.

### **A. CONTRACT AND INTERPRETATION**

#### **1. Interpretation (GCC Clause 2)**

GCC 2.1 The language of the Contract, all correspondence and communications to be given, and all other documentation to be prepared and supplied under the Contract not otherwise specified in the Technical Requirements shall be: English

#### **2. Notices (GCC Clause 3)**

GCC3 For ATI

Notices for ATI shall be delivered to:

The Chief Executive Officer, African Trade Insurance Agency, 5<sup>th</sup> floor, Kenya Re Towers, Upperhill, P.O. Box 10620-00100, Nairobi, Kenya

For The Integrator

Notices for the Integrator shall be delivered to: XXXXX Managing Director XXXXX XXXXX XXXXX

#### **3. Governing Law (GCC Clause 4)**

The Contract shall be governed and interpreted according to the laws of Kenya

#### **4. Settlement of Disputes (GCC Clause 5)**

### **B. SUBJECT MATTER OF CONTRACT**

#### **5. Time for Commencement and Operational Acceptance (GCC Clause 7)**

GCC 7.1 The Consultant shall commence work on the Intranet within: one week from date of award of contract.

GCC 7.2 Operational Acceptance will occur as specified in the technical proposal submitted by the Consultant.

### **C. PAYMENT**

#### **6. Contract Price (GCC Clause 10)**

GCC 10.1 The Contract price shall be the price indicated on the Price Schedule.

**7. Terms of Payment (GCC Clause 11)**

GCC 11.1 Subject to the provisions of GCC Clause 11 (Terms of Payment), ATI shall pay the Contract Price to the Consultant upon delivery and acceptance of the Intranet:

Payment will be made by bank transfer within 30 days after receipt and acceptance of the Intranet solution.

**8. Securities (GCC Clause 12)**

GCC 12.1 The Consultant shall provide, prior to an advance payment under the signed contract, an Advance Payment Security in the amount and currency of the Advance Payment specified in GCC Clause 12.1.

**D. INTELLECTUAL PROPERTY**

**9. Agreements and Confidential Information (GCC Clause 14)**

GCC 14.1 (a)(i)-As stated in the GCC

GCC 14.1(a)(ii)-None

**E. E. DESIGN, TESTING, COMMISSIONING, AND ACCEPTANCE.**

**10. Representatives (GCC Clause 15)**

GCC 15.1 Michael Monda, IT Specialist

GCC 15.2.1 \_\_\_\_\_

GCC 15.2.2 Not Applicable

**11. Project Plan (GCC Clause 16)**

GCC 16.1 Chapters in the Project Plan shall address the following subjects:

(a) Project Organization and Management Plan;

(b) Delivery and Installation Plan;

(c) Training plan;

(d) Testing plan;

(e) Warranty service plan;

GCC 16.2

**12. Product upgrades**

The warranty period is: 12 months from date of operational acceptance