

6th May 2024

Requests for proposals (RFP)

Tender No. ATIDI/FD/APU/OBCS/001/2024- Consultancy services for a comprehensive brand survey

The African Trade Insurance Agency (ATIDI), is a pan-African multilateral insurer owned by African Governments. Its primary objective is to enhance foreign direct investments into its member countries while also facilitating increased intra-regional trade.

ATIDI was founded in 2001 by African States to cover trade and investment risks of companies doing business in Africa. It predominantly provides Political Risk, Credit Insurance and, Surety Insurance. Since inception, ATIDI has supported USD78 billion worth of investments and trade into Africa. For over a decade, ATIDI has maintained an 'A/Stable' rating for Financial Strength and Counterparty Credit by Standard & Poor's, and in 2019, it obtained an A3/Stable rating from Moody's, which has now been revised to A3/Positive.

In July 2023, the organization unveiled its new brand identity, which provides a better fit to its growing stature as the multilateral trade and investment insurer on the continent, and has begun rolling out a Communications strategy to promote its brand and strengthen its position as a leader in the development insurance sector.

ATIDI is seeking the services of a qualified and experienced Consultant to conduct a comprehensive survey, aimed at evaluating the current perception and positioning of ATIDI brand in the market. The purpose of this survey is to gather valuable insights that will inform strategic decisions to enhance ATIDI's brand presence and reputation.

ATIDI invites qualified and experienced firms to submit proposals for provision of the services as per the attached terms of reference (Appendix A).

You may obtain any clarifications from ATIDI, by writing to procurement@atidi.africa and copy press@atidi.africa and you can contact ATIDI on telephone number +254 719 014 000.

Please note that (i) the costs of preparing the proposal and of negotiating the contract are not reimbursable as a direct cost of the assignment; and (ii) ATIDI is not bound to accept any proposal.

The e-copy of your proposal should be submitted to procurement@atidi.africa .The closing date for receipt of proposals is **Friday, 31st May 2024 at 14.30 hours East African Time**. Bidders are free to attend the online meeting for opening of the proposals on the following link: <https://us06web.zoom.us/j/82339090688?pwd=40EMAgEaFaHBQwtjPhwwbR61HF8Akg.1>

You are required to submit two separate files (technical and financial bids) which should be attached to the email as below.

The Technical file should contain the technical proposal and be named as follows:

Tender No. ATIDI/FD/APU/OBCS/001/2024- Technical proposal: Consultancy services for a comprehensive brand survey

Please DO NOT include any financial information in the technical proposal as this may result in disqualification.

The financial file should contain the financial proposal and be named as follows:

Tender No. ATIDI/FD/APU/OBCS/001/2024- Financial proposal: Consultancy services for a comprehensive brand survey

The subject line of the email should be as follows:

ATIDI/FD/APU/OBCS/001/2024 - Consultancy services for a comprehensive brand survey

The Financial Proposal MUST be password protected. The authorized procurement officer will contact the bidders that pass the qualifying technical score for the password to open the Financial Proposal. Bidders should NOT send the password for the financial proposal until they are requested to do so by the procurement officer. Financial Proposals that are submitted without password protection may be rejected for non-compliance.

The proposal should be valid for not less than 90 days from date of submission.

Interested bidders are requested to send an email to procurement@atidi.africa to indicating that you will submit a proposal so that any updates to the request for proposals can be shared with you.

Yours faithfully,



Rodgers Siachitema
Senior Procurement/Admin Officer

Table of Contents

Appendix A - Terms of Reference	4
Appendix B - Preparation of Technical proposals - Standard Forms	6
Appendix C- Formats for Financial Proposal	15
Appendix D - Evaluation of the proposals.....	18
Appendix E - Declaration of conflict of interests	19

1.0 Background

The African Trade Insurance Agency (ATIDI), is a pan-African multilateral insurer owned by African Governments. Its primary objective is to enhance foreign direct investments into its member countries while also facilitating increased intra-regional trade.

ATIDI was founded in 2001 by African States to cover trade and investment risks of companies doing business in Africa. It predominantly provides Political Risk, Credit Insurance and, Surety Insurance. Since inception, ATIDI has supported USD78 billion worth of investments and trade into Africa. For over a decade, ATIDI has maintained an 'A/Stable' rating for Financial Strength and Counterparty Credit by Standard & Poor's, and in 2019, it obtained an A3/Stable rating from Moody's, which has now been revised to A3/Positive.

In July 2023, the organization unveiled its new brand identity, which provides a better fit to its growing stature as the multilateral trade and investment insurer on the continent, and has begun rolling out a Communications strategy to promote its brand and strengthen its position as a leader in the development insurance sector.

ATIDI is seeking the services of a qualified and experienced Consultant to conduct a comprehensive survey, aimed at evaluating the current perception and positioning of our brand in the market. The purpose of this survey is to gather valuable insights that will inform strategic decisions to enhance our brand presence and reputation.

2.0 Objective of the Assignment

Working with ATIDI's Communications team, design and carry out a survey to measure:

- (a) Awareness of ATIDI's new brand and effectiveness of the brand's messaging;
- (b) Understanding of ATIDI's business, its products;
- (c) Perception of ATIDI as a leader in its sector;
- (d) Perception on ATIDI's business delivery
- (e) Assessing the current brand awareness and perception among our target audience
- (f) Identify the strengths, weaknesses, opportunities and threats related to the brand.

3.0 Scope of work

The survey will be carried out in two phases: a benchmark to be carried out immediately, and a brand survey to be carried out one year after the benchmark, in order to assess progress in brand recognition, understanding and preference.

Working with ATIDI's Communications team:

- (a) Identify and segment the target audiences;
- (b) Develop the survey questionnaires;
- (c) Carry out the benchmark against industry players and identify areas of differentiation: send out the questionnaire, collect and aggregate responses;
- (d) Analyze the benchmark and brand survey results highlighting the findings and recommendations;

- (e) At the conclusion of the consultation, submit to ATIDI's Communications team, a full report on the service provided.

4.0 Firm's experience

The selected consultant:

- Experience in providing similar services as above for at least 10 years;
- Proven track record of designing and carrying out brand surveys;
- Provide references of past clients/assignments.

5.0 Team Composition

The team shall comprise a Team Leader and other professional staff members. The minimum qualifications for the staffs are as follows:

a) Team Leader

- A relevant degree in an area relevant to the assignment such as communication, journalism, public relation or business-related degree.
- At least 10 years relevant experience in a private or public organization.
- Excellent interpersonal, facilitation, coordination, communication skills and ability to work within a team and tight deadlines.

b) Other Professional Staff Member

- Relevant qualification in an area relevant to the assignment.
- Have participated in at least two similar assignments.
- Have at least 5 years of experience.

Appendix C - Preparation of Technical proposals - Standard Forms

TECH-1	Technical Proposal Submission Form
TECH-2	Consultant' Experience
TECH-3	Comments or Suggestions on the Terms of Reference
TECH-4	Description of the Approach and Methodology and timelines for Performing the Assignment
TECH-5	Team Composition and Task Assignments
TECH-6	Curriculum Vitae (CV) for Proposed Professional Staff

TECH-1 -Technical Proposal Submission Form

[Date]

To: [Name and address of Client]

We, the undersigned, offer to provide the consulting services for [Insert title of assignment] in accordance with your Request for Proposal dated [Insert Date] and our Proposal. We are hereby submitting our Proposal, which includes this Technical Proposal, and a Financial.

We are submitting our Proposal in association with: [Insert a list with full name and address of each associated Consultant if submitting as an association]

We hereby declare that all the information and statements made in this Proposal are true and accept that any misinterpretation contained in it may lead to our disqualification.

If negotiations are held during the period of validity of the Proposal, i.e., before the date indicated in the letter of invitation of the RFP, we undertake to negotiate on the basis of the proposed staff, methodology and approach. Our Proposal is binding upon us and subject to the modifications resulting from Contract negotiations.

We undertake, if our Proposal is accepted, to initiate the consulting services related to the assignment.

We understand you are not bound to accept any Proposal you receive. We remain,

Yours sincerely,

Authorized Signature [In full and initials]:

Name and Title of Signatory:

Name of Firm:

Address:

TECH-2 Consultant's Experience

Using the format below, provide information on each assignment for which your firm, and each associate for this assignment, was legally contracted either individually as a corporate entity or as one of the major companies within an association, for carrying out consulting services similar to the ones requested under this assignment.

Assignment name:	Approx. value of the contract (in current US\$ or Euro):
Country: Location within country:	Duration of assignment (months):
Name of Client:	Total N° of staff-months of the assignment:
Address:	Approx. value of the services provided by your firm under the contract (in current US\$ or Euro):
Start date (month/year): Completion date (month/year):	N° of professional staff-months provided by associated Consultants:
Name of associated Consultants, if any:	Name of senior professional staff of your firm involved and functions performed:
Narrative description of Project:	
Description of actual services provided by your staff within the assignment:	

Firm's Name: _____

TECH-3 Comments and suggestions on the Terms of Reference
--

[Present and justify here any modifications or improvement to the Terms of Reference you are proposing to improve performance in carrying out the assignment (such as deleting some activity you consider unnecessary, or adding others). Such suggestions should be concise and to the point, and incorporated in your Proposal.]

TECH-4	Description of approach and methodology for performing the assignment
---------------	--

In this chapter you should explain your understanding of the objectives of the assignment, approach to the services, methodology for carrying out the activities and obtaining the expected output, and the degree of detail of such output.

TECH-5 Team composition and task assignments

Provide information on Personnel Team Composition and Task assignment

Professional Staff				
Name of Staff	Firm	Area of Expertise	Position Assigned	Task Assigned

1. **Proposed Position:**
2. **Name of Firm** [Insert name of firm proposing the staff]:
3. **Name of Staff** [Insert full name]:
4. **Date of Birth:** _____ **Nationality:** _____
5. **Countries of Work Experience and employment record:**

[Starting with present position, list in reverse order every employment held by staff member since graduation, giving for each employment (see format here below): dates of employment, name of employing organization, positions held.]:

From [Year]: _____ To Year]: _____
 Employer: _____
 Positions held: _____

6. Detailed Tasks Assigned

<p><i>[List all tasks to be performed under this assignment]</i></p>	<p>Work Undertaken that Best Illustrates Capability to Handle the Tasks Assigned</p> <p><i>[Among the assignments in which the staff has been involved, indicate the following information for those assignments that best illustrate staff capability to handle the position listed under point 1.]</i></p> <p>Nature of assignment: _____</p> <p>Year: _____</p> <p>Location: _____</p> <p>Client: _____</p> <p>Positions held: _____</p> <p>Activities performed: _____</p>
--	---

7. **Membership of Professional Associations:** _____
8. **Education** [Indicate college/university and other specialized education of staff member, giving names of institutions, degrees obtained, and dates of obtainment]: _____

9. Other Training [Indicate significant training since degrees under 8 - Education were obtained]:
10. **Languages** [For each language indicate proficiency: good, fair, or poor in speaking, reading, and writing]:
11. **Certification:**

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience. I understand that any wilful misstatement described herein may lead to my disqualification or dismissal, if engaged.

[Signature of staff member or authorized representative of the staff]

Date: *Day/Month/Year*

Full name of authorized representative: _____

Appendix D- Formats for Financial Proposal

You are required to prepare and submit the Financial Proposal in a separate file from the Technical Proposal.

The Financial Proposal must provide a detailed cost breakdown and a payment schedule preferably linked to the schedule of deliverables presented in Appendix A. The Financial Section shall provide details of unit /daily fee rate per proposed team member and total consultancy fees based on the time proposed for performance of the services. Any estimates for cost-reimbursable expenses, should be listed separately and capped. The Financial Proposal should be exclusive of the taxes applicable in Kenya, ATIDI is exempt from paying taxes in members states.

The Financial Proposal must also have the total consultancy fee summarized in addition to the break down covering the lump sum amount for purposes of determining the financial score and contract price. Financial Proposal Standard Forms shall be used for the presentation of the Financial Proposal.

Form FIN-1: Financial Proposal Submission Form

[Date]

To: [Name and address of Client]

We, the undersigned, offer to provide the consulting services for [Insert title of assignment] in accordance with your Request for Proposal dated [Insert Date] and our Technical Proposal. Our attached Financial Proposal is for the sum of [Insert amount(s)] in words and figures in **USD**.

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the validity period of the Proposal.

We understand you are not bound to accept any Proposal you receive. We remain,

Yours sincerely,

Authorized Signature [In full and initials]:

Name and Title of Signatory:

Name of Firm: Address:

Form FIN-2: Summary of Costs

Item No	Description of activity	Total fixed fee (USD) (Lump Sum, All Inclusive)
1		
2		
3		
4		
Total financial proposal [USD]		[Insert total lump sum price]

Fee schedule:

- **Research Design and Methodology:** 20% will be paid upon completion and approval of the research design and methodology. This stage includes developing the survey instruments, defining the target audience and outlining the research approach.
- **Data Collection Phase:** 30% will be paid upon completion of the data collection phase and approval of the report by ATIDI. This stage involves gathering data through surveys, benchmarking analysis against industry players, interviews or other research methods outlined in the methodology.
- **Analysis and Reporting:** 20% will be paid upon completion of the analysis and reporting phase. This stage includes data analysis, key trends, interpretation of findings and draft of the final report.
- **Final Deliverables:** 30% will be paid upon submission and acceptance of the full report to ATIDI's Communications team, summarizing the consultation process, methodologies, findings, recommendations and any additional deliverables requested

Any request for advance payment shall be accompanied by a Bank Guarantee in the equivalent amount of the advance payment and in the format to be approved by ATIDI.

Appendix E - Evaluation of the proposals

The proposals will be evaluated under the **Quality-Cost Based selection method**.

The evaluation will be conducted in three (3) stages as shown below. Failure of a proposal at any stage shall prevent further consideration of the proposal at the next stage of evaluation.

(i) Stage 1 – Preliminary/Eligibility evaluation – KYC

The eligibility requirements shall be based on the requirements in the table below. Recruitment firms will be required to comment against each criteria below or submit supporting documents.

S/N	Requirement	Compliance status (yes/no/declare/submit supporting documents)
1	Signed technical proposal submission form	Submit completed form
2	The bidder shall be solvent, and shall not be in receivership, bankrupt or wound up, shall not have its affairs administered by a court or judicial officer, or its business activities suspended or the subject of legal proceedings for any of the foregoing.	must declare
3	The bidder shall disclose any material information on the firm during the last 3 years including: <ul style="list-style-type: none"> • Sanctions • Litigations • Complaints • Investigations or proceedings • Legal/Tax/Compliance issues • Restructuring 	must declare
4	The bidder shall not have any conflict of interest in relation to the procurement requirement	Submit completed form
5	The bidder shall not be involved in any money laundering activities.	must declare
6	The bidder must provide the following information:	Submit each of required documents
	• Name of individual(s) completing the proposal/contact person(s) with their full contact details	
	• Firm's name and full contact details including registered office address	
	• Board Register (Name of Directors)	
	• Share register stating detailed ownership (+ any material developments in the past three years)	
	• Beneficial owners	
	• Organizational chart of firm showing parent company and affiliates along with their location	
	• Notarized power of attorney (of authorized signatories plus corresponding Board resolution)	
	• Certified copy of the company's Professional Indemnity Insurance cover certificate	
7	Tax compliance certificate (where applicable)	Submit copy

(ii) Stage 2 - Technical evaluation

The technical proposals will be evaluated using the criteria and merit point system indicated in the table below. The minimum pass mark is **80%**.

Item	Score (%)
Specific experience of the firm relevant to the assignment <ul style="list-style-type: none">• Experience in providing similar services for at least 10 years (10 points)• Proven track record of designing and carrying out brand surveys (Provide references of past clients/assignments). (4 points each for each client up to 5 clients)	30
Adequacy of the proposed methodology and work plan in responding to the Terms of Reference: <ul style="list-style-type: none">a) Demonstrate clear understanding of the Terms of Reference (ToRs) and present a clear approach and methodology in achieving the ToRs, well structured, relevant, and logical approach to assignment (10)b) Work plan/timelines in carrying out the assignment (10)	20
Key professional staff qualifications and competence for the assignment: <ul style="list-style-type: none">a) Team Leader (Qualifications and experience) (30)b) Other team members (Qualifications and experience) (20) <p>The number of points to be assigned to each of the above positions shall be determined considering the following three sub-criteria and corresponding percentage weights:</p> <ul style="list-style-type: none">1) General and Professional qualifications (40)2) Experience for the assignment (60)	50
Total	100

(iii) Stage 3 - Evaluation of Financial Proposals

The evaluation committee, after determining whether the financial proposals are complete and without computational errors, shall convert prices in various currencies to the common currency specified in the Data Sheet. The official selling rates used shall be provided by the source indicated in the Data Sheet and in effect on the date of submission of the proposals. The lowest financial proposal (F_m) shall be given a financial score (S_f) of 100 points. The financial scores of the other proposals shall be computed as follows:

$$S_f = 100 \times F_m / F$$

(in which S_f is the financial score, F_m is the lowest price and F the price of the proposal under consideration converted in the common currency).

Final ranking of proposals - Proposals shall finally be ranked according to their combined technical (S_t) and financial (S_f) scores using the weights (T = the weight given to the technical proposal; P = the weight given to the financial proposal; $T + P = 1$) indicated in the Data Sheet:

$$S = S_t \times T\% + S_f \times P\%$$

$$T = 70\% - P = 30\%$$

Appendix F - Declaration of conflict of interests

Notes:

- You are required to identify any potential conflicts of interest that could arise in the provision of the services.
- You are required provide sufficient detail of each interest (if any).
- 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 include the following:

- The firm or any person employed or engaged by or otherwise connected with the firm has provided or is providing services or other work for ATIDI;
- The firm or any relevant Person has any other connection with ATIDI, whether personal or professional, which the public could perceive may impair or otherwise influence ATIDI's or any of its members' or employees' judgements, decisions or actions;

Declarations:

Name of Organization:	
Interests	
Type of Interest	Details
Provision of services or other work for ATIDI	
Any other connection with ATIDI, whether personal or professional, which the public could perceive may impair or otherwise influence ATIDI's or any of its members' or employees' judgements, decisions or actions	

Name of Relevant Person	<i>[complete for all Relevant Persons]</i>	
Interests		
Type of Interest	Details	Personal interest or that of a family member, close friend or other acquaintance?
Provision of services or other work for ATIDI		
Provision of services or other work for any other firm in respect of this project		
Any other connection with ATIDI, whether personal or professional, which the public could perceive may impair or otherwise influence ATIDI's or any of its members' or employees' judgements, decisions or actions		

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

We have identified/not identified the following conflict of interest

Signed.....

On behalf of.....

Draft Contract

TABLE OF CONTENTS

I. FORM OF CONTRACT	21
II. GENERAL CONDITIONS OF CONTRACT	24
III. SPECIAL CONDITIONS OF CONTRACT	31
APPENDIX A - TERMS OF REFERENCE	33
APPENDIX B - REPORTS/OUTPUTS	33
APPENDIX C: KEY PERSONNEL	33
APPENDIX D: BREAKDOWN OF CONTRACT PRICE.....	33
APPENDIX E: SERVICES AND FACILITIES PROVIDED BY THE CLIENT	33

I. FORM OF CONTRACT

This CONTRACT (hereinafter called the "Contract") is made the _____ day of the month of _____ 2023, between, on the one hand, the **African Trade Insurance Agency** (operating under the commercial name of African Trade & Investment Development Insurance - ATIDI), a multilateral financial institution established by the Agreement establishing the African Trade Insurance Agency which was registered under Article 102 of the Charter of the United Nations and having its headquarters at Kenya Re Towers, 5th Floor, Upper Hill, off Ragati Road, P.O. Box 10620, GPO 00100, Nairobi, Kenya (the "Client") and, on the other hand, _____ having its principal place of business at _____ (the "Consultant").

WHEREAS;

- (a) the Client has requested the Consultant to provide certain services as defined in this Contract (hereinafter called the "**Services**");
- (b) the Consultant, having represented to the Client that they have the required professional skills, and personnel and technical resources, have agreed to provide the Services on the terms and conditions set forth in this Contract;

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:

- (a) The General Conditions of Contract;
- (b) The Special Conditions of Contract;
- (c) The following Appendices:

Appendix A: Terms of Reference

Appendix B: Reporting Requirements

Appendix C: Key Personnel

Appendix D: Breakdown of Contract Price

Appendix E: Services and Facilities Provided by the Client

2. The mutual rights and obligations of the Client and the Consultant shall be as set forth in the Contract, in particular:

- (a) The Consultant shall carry out the Services in accordance with the provisions of the Contract; and
- (b) The Client shall make payments to the Consultant in accordance with the provisions of the Contract.
- (c) in the event of any conflict between this Contract (or any portion thereof) and any other

agreement or letter now existing or hereafter entered into between the African Trade Insurance Agency and _____, the terms of this Contract shall prevail.

IN WITNESS whereof the parties hereunto have caused this Contract to be executed in accordance with their laws the day and year first above written.

SIGNED by:

Signature:

Name: Manuel Moses Position: Chief Executive Officer

On behalf of the **African Trade Insurance Agency** (Client)

In the presence of:

Signature:

Name: Linda Bwakira Position: General Counsel & Corporate Secretary

On behalf of the **African Trade Insurance Agency** (Client)

Signed, by:

Signature:

Name: _____ Position: _____

On behalf of, _____ (the Consultant)

In the presence of:

Signature:

Name: _____ Position: _____

On behalf of, _____ (the Consultant)

II. GENERAL CONDITIONS OF CONTRACT

(The General Conditions of Contract ("GCC") shall not be modified)

1. General Provisions

1.1 Definitions

Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- a) "Applicable Law" means the laws and any other instruments having the force of law in Wales and England as they may be issued and in force from time to time;
- b) "Contract" means the Contract signed by the Parties, to which these General Conditions of Contract (GC) are attached, together with all the documents listed in Clause 1 of such signed Contract;
- c) "Contract Price" all charges for professional services, costs and disbursements which have been demonstrably reasonably and necessarily incurred;
- d) "Client" means the African Trade Insurance Agency;
- e) "foreign currency" means any currency other than the currency of Kenya;
- f) "GC" means these General Conditions of this Contract;
- g) "Member", in case the Consultant consist of a joint venture of more than one entity, means any of these entities; "Members" means any of these entities, and "Member in charge" means the entity specified in the SC to act on their behalf in exercising all the Consultant' rights and obligations towards the Client under this Contract;
- h) "Party" means the Client or Consultant, as the case may be, and "Parties" means both of them
- i) "SC" means the Special Conditions of this Contract
- j) "Services" means the work to be performed by the Consultant pursuant to the Contract.

1.2 Law Governing the Contract

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.

1.3 Language

This Contract has been executed in the language specified in the SC, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

1.4 Notices

Any notice, request, or consent made pursuant to this Contract shall be in writing and shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail or email to such

Party at the address specified in the SC.

1.5 Location

The Services shall be performed at such locations as are specified in Appendix A and, where the location of a particular task is not so specified, at such locations, whether in Kenya or elsewhere, as the Client may approve.

1.6 Authorized representatives

Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the Client or the Consultant may be taken or executed only by the authorized representatives/ officials specified in the SC.

1.7 Taxes and Duties

Unless otherwise specified in the SC, the Consultant, Sub consultants, and their Personnel shall pay such taxes, duties, fees, and other impositions as may be levied under the Applicable Law, the amount of which is deemed to have been included in the Contract Price.

2. COMMENCEMENT, COMPLETION, MODIFICATION, AND TERMINATION OF CONTRACT

2.1 Effectiveness of Contract

This Contract shall come into effect on the date the Contract is signed by both parties or such other later date as may be stated in the SC.

2.2 Commencement of Services

The Consultant shall begin carrying out the Services after the date the Contract becomes effective, or at such other date as may be specified in the SC.

2.3 Expiration of Contract

Unless terminated earlier pursuant to Clause 2.6, this Contract shall terminate at the end of such time period after the Effective Date as is specified in the SC.

2.4 Modification

Modification of the terms and conditions of this Contract, including any modification of the scope of the Services or of the Contract Price, may only be made by written agreement between the Parties.

2.5 Force Majeure

2.5.1 Definition

For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party and which makes a Party's performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.

2.5.2 No Breach of Contract

The failure of a Party to fulfill any of its obligations under this Contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.

2.5.3 Extension of Time

Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

2.6 Termination

2.6.1 By the Client

The Client may terminate this Contract, by not less than thirty (30) days' written notice of termination to the Consultant, to be given after the occurrence of any of the events specified in paragraphs (a) through (c) of this Clause 2.6.1 and thirty five (35) days' in the case of the event referred to in (d):

- (a) if the Consultant do not remedy a failure in the performance of their obligations under the Contract, within thirty (30) days after being notified or within any further period as the Client may have subsequently approved in writing;
- (b) if the Consultant become insolvent or bankrupt;
- (c) if, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- (d) if the Client, in its sole discretion, decides to terminate this Contract.

2.6.2 By the Consultant

The Consultants may terminate this Contract, by not less than thirty (30) days' written notice to the Client, such notice to be given after the occurrence of any of the events specified in paragraphs (a), (b), (c) and (d) of this Clause 2.6.2:

- a) if the Client fails to pay any monies due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause 7 within forty-five (45) days after receiving written notice from the Consultant that such payment is overdue; or
- b) if, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days.
- c) If the Client becomes insolvent or bankrupt;
- d) The Consultant may terminate this Contract, or any particular Services, immediately upon written notice to the Client if the Consultant reasonably determines that it can no longer provide the Services in accordance with applicable law or professional obligations.

2.6.3 Payment upon Termination

Upon termination of this Contract pursuant to Clauses 2.6.1 or 2.6.2, the Client shall make the following payments to the Consultant: remuneration pursuant to Clause 6 for Services satisfactorily performed prior to the effective date of termination.

3. OBLIGATIONS OF THE CONSULTANT

3.1 General

The Consultant shall perform the Services and carry out their obligations with all due diligence, efficiency, and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with Sub-consultants or third parties.

3.2 Conflict of Interests

3.2.1 Consultants Not to Benefit from Commissions, Discounts, etc.

The remuneration of the Consultant pursuant to Clause 6 shall constitute the Consultant's sole remuneration in connection with this Contract or the Services, and the Consultant shall not accept for their own benefit any trade commission, discount, or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations under the Contract, and the Consultant shall use their best efforts to ensure that the Personnel, any Subconsultants, and agents of either of them similarly shall not receive any such additional remuneration.

3.2.2 Consultants Not to Be Otherwise Interested in Project

The Consultant agree that, during the term of this Contract and for a period of six (6) months after its termination, the Consultant, as well as any Subconsultant, shall be disqualified from providing goods, works, or services (other than the Services and any continuation thereof) for any project resulting from recommendations made by the consultant in the cause of provision of the services.

3.2.3 Prohibition of Conflicting Activities

Neither the Consultant nor their Sub-consultants nor the Personnel shall engage, either directly or indirectly, in any of the following activities:

- a) during the term of this contract, any business or professional activities that would conflict with the activities assigned to them under this Contract; or
- b) after the termination of this contract, such other activities as may be specified in the SC.

3.3 Confidentiality

3.3.1. Except as otherwise permitted by this Contract the Consultant and the Personnel shall not, either during the term or within two (2) years after the expiration of this Contract, communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Personnel make public the recommendations formulated in the course of, or as a result of, the Services or the Client's business or operations without the prior written consent of the Client. Either of the Parties may however disclose the information to the extent that it:

- (a) is or becomes public other than through a breach of this Contract,
- (b) is subsequently received by the recipient from a third party who, to the recipient's knowledge, owes no obligation of confidentiality to the disclosing party with respect to that information,
- (c) was known to the recipient at the time of disclosure or is thereafter created independently,
- (d) is disclosed as necessary to enforce the recipient's rights under this Contract, or
- (e) must be disclosed under applicable law, legal process, insurance purposes or professional regulations.

3.3.2 Either of the Parties may use electronic media to correspond or transmit information and such use will not in itself constitute a breach of any confidentiality obligations under this Contract.

3.3.3 The Consultant shall be responsible for maintaining the confidentiality of Client Information regardless of by whom such Information is Processed on behalf of the Consultant.

3.4 Insurance to Be Taken Out by the Consultant

The Consultant (a) shall take out and maintain at their own cost but on terms and conditions approved by the Client, insurance against the risks, and for the coverage, as shall be specified in the SC; and (b) at the Client's request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums have been paid.

3.5 Consultants' Actions Requiring Client's Prior Approval

The Consultant shall obtain the Client's prior approval in writing before taking any of the following actions:

a) entering into a subcontract for the performance of any part of the Services,

b) appointing such members of the personnel not listed by name in Appendix C ("Key Personnel and Sub-consultants).

3.6 Reporting Obligations

The Consultant shall submit to the Client the reports and documents specified in Appendix B in the form, in the numbers, and within the periods set forth in the said Appendix.

3.7 Documents Prepared by the Consultant to Be the Property of the Client

All plans, drawings, specifications, designs, reports, and other documents and software submitted by the Consultant in accordance with Clause 3.6 shall become and remain the property of the Client, and the Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Client, together with a detailed inventory thereof. The Consultant may retain a copy of such documents and software. Restrictions about the future use of these documents, if any, shall be specified in the SC.

4. CONSULTANTS' PERSONNEL

4.1 Description of Personnel

The titles and agreed job descriptions in the carrying out of the Services of the Consultant's Key Personnel are described in Appendix C. The Key Personnel listed by title as well as by name in Appendix C are hereby approved by the Client.

4.2 Removal and/or Replacement of Personnel

(a) Except as the Client may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Consultant, it becomes necessary to replace any of the Key Personnel, the Consultant shall provide as a replacement a person of equivalent or better qualifications.

(b) If the Client finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) have reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultant shall, at the Client's written request specifying the grounds therefore, provide as a replacement a person with

qualifications and experience acceptable to the Client.

(c) The Consultant shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

5. OBLIGATIONS OF THE CLIENT

5.1 Assistance and Exemptions

The Client shall use its best efforts to assist with exemptions as specified in the SC.

5.2 Services and Facilities

The Client shall make available to the Consultant the Services and Facilities listed under Appendix E.

6. PAYMENTS TO THE CONSULTANT

6.1 Remuneration

The Consultant's remuneration shall be a lumpsum amount and shall be based on the agreed fees in providing the services and shall include staff costs, printing, communications and all other costs incurred by the Consultant in carrying out the Services described in Appendix A. The Contract Price may only be increased above the amounts stated in Clause 6.2 if the Parties have agreed to additional payments in accordance with Clause 2.4.

6.2 Contract Price

- (a) The price payable in foreign currency is set forth in the SC.
- (b) The price payable in local currency is set forth in the SC.

6.3 Payment for Additional Services

For the purpose of determining the remuneration due for additional services as may be agreed under Clause 2.4., a breakdown of the lump sum price is provided in Appendices D.

6.4 Terms and Conditions of Payment

Payments will be made to the account of the Consultant and according to the payment schedule stated in the SC. Request for advance payment shall be made against the provision by the Consultant of a bank guarantee for the same amount, and shall be valid for the period stated in the SC. Any other payment shall be made after the conditions listed in the SC for such payment have been met, and the Consultant have submitted an invoice to the Client specifying the amount due.

6.5 Interest on Delayed Payments

If the Client has delayed payments after the due date stated in the SC, interest shall be paid to the Consultant for each day of delay at the rate stated in the SC.

7. FRAUD AND CORRUPTION

Any act of corruption, bribery, fraud concerning the Client (ATI) or the Supplier/Consultant will authorize either party to terminate this Contract without prior notice.

8. LIABILITY & INDEMNITY

8.1 Unless specifically otherwise agreed with the Client (ATI) in writing, the Consultant's

responsibility for performance of the Services is to ATI and ATI alone.

8.2 Unless specifically otherwise agreed with the Consultant in writing, any unauthorized disclosure of this Contract or data or information arising from it by the Consultant to third parties, the Consultant agrees to indemnify the Client, against all claims by third parties, and resulting liabilities, losses, damages, costs and expenses (including reasonable external and internal legal costs) arising out of such unauthorized disclosure.

9. SETTLEMENT OF DISPUTES

9.1 Amicable Settlement

The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

9.2 Dispute Settlement

Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement may be submitted by either Party for settlement in accordance with the provisions specified in the SC.

10. INTELLECTUAL PROPERTY

It is acknowledged and agreed by the Parties that nothing in this Contract shall affect either Party's ownership of any Intellectual Property Rights which exist as of the date of this Contract or will be generated independent of this Contract thereafter.

11. REPRESENTATIONS AND WARRANTIES

Each Party represents and warrants that it has the authority necessary to enter into this Contract, and to do all things necessary to procure the fulfilment of its obligations in terms of this Contract.

III. SPECIAL CONDITIONS OF CONTRACT

These Special Conditions of Contract delete, amend or add to the clauses in the General Conditions of Contract. In the event of an inconsistency, these Special Conditions of Contract shall take precedence over the General Conditions of Contract to the extent of that inconsistency. These Special Conditions of Contract intend to supplement, but not over-write or otherwise contradict, the General Conditions.

Number of Amendments of, and Supplements to, Clauses in the General Conditions GC

1.3 The language is: **English**

1.4 The addresses are:

For the Client: **The African Trade Insurance Agency, Kenya Re Towers, 5th Floor, Upperhill, off Ragati Road, P.O. Box 10620-00100, Nairobi, Kenya**

Attention:

For the Consultant: _____

Attention: _____

Email address: _____

Tel: z _____

1.6 The Authorized Representatives are:

For the Client:

For the Consultant: _____

1.7 Payment to the Consultant will be exclusive of local VAT in Kenya.

2.1 The date on which this Contract shall come into effect is:

2.2 The date for the commencement of Services is:

2.3 The period shall be: until full delivery of the services.

3.4 The risks and insurance coverage shall be:

3.7 "The Consultant shall not use these documents for purposes unrelated to this Contract without the prior written approval of the Client."

5.1 Not applicable

6.1 The Consultant's remuneration shall be a Lumpsum amount and shall include reimbursable costs.

6.2 (a) The amount in foreign currency or currencies is: refer to appendix D.

6.2 (b) The amount in local currency is: Not applicable.

6.4 (insert)

Any request for advance payment shall be accompanied by a Bank Guarantee in the equivalent amount of the advance payment and in the format to be approved by ATI.

- 6.5 Payments shall be made within 30 days of receipt of the invoice subject to acceptance of reports by the Client.

The interest rate is: **Not applicable.**

- 9.2 Any dispute, controversy or claim arising out of or relating to this Contract of the breach, termination or invalidity thereof, between the Parties shall be resolved by Arbitration under UNCITRAL Rules which Rules are deemed to be incorporated by reference into this clause. The venue of arbitration shall be Nairobi, Kenya. The applicable law shall be the laws of England and Wales. The proceedings shall be held in the English language. The arbitration award shall be final, binding and not subject to appeal.

APPENDIX A - TERMS OF REFERENCE

APPENDIX B - REPORTS/OUTPUTS

APPENDIX C: KEY PERSONNEL

APPENDIX D: BREAKDOWN OF CONTRACT PRICE

Where travel is required to be undertaken by the Consultant, ATIDI will provide an economy class ticket and appropriate accommodation.

APPENDIX E: SERVICES AND FACILITIES PROVIDED BY THE CLIENT