

*Ufficio di Yangon*

Prot. n. AICSY-OUT-192-2018-03-26

PROJECT : "SUPPORT TO THE ODA COORDINATION IN MYANMAR :  
CAPACITY DEVELOPMENT OF DONOR COORDINATION (CAD-MM) - AID  
11087"

**CONSULTANCY CONTRACT**

(Hereinafter referred to as "**the Contract**")

between

**The Italian Agency for Development Cooperation - Yangon Office**

(Hereinafter referred to as "**the Client**")

Represented by the Director Eng. Maurizio Di Calisto,  
41-7B, Inya Myaing, Shwe Taung Gone, Bahan Township, Yangon

and

**NetSmart Company Limited**

(Hereinafter referred to as "**the Consultant**")

Represented by Khin Thandar,  
5-B, 18 Kyauk Kone Street, Yankin Township, Yangon

**WHEREAS**

That with Decree n. 20 dated March 10, 2017, the Director of the Italian Agency for Development Cooperation authorized the allocation of funds for the Project "Support to the ODA coordination in Myanmar: Capacity Development of Donor Coordination (CAD-MM) - AID 11087";

That as per the last version of the General Operational Plan approved by the Italian Agency for Development Cooperation, the Project foresees, among other, the provision of the "Technical Support activities to the Foreign Economic Relations Department" such as: technical equipment and logistic support for the organisation of conferences related to the development sector;

That the Technical Support activities will be executed through the awarding of Technical Support contracts to interested Economic Operators after a Tender Process;

  


That the Client intends to engage a Consultancy Company, to be supported in the need assessment process and in drafting the Tender relevant document;

That the Consultant is ready and willing to accept this Consultancy Contract with the Client on the below Terms and Conditions.

### THE PARTIES AGREE AS FOLLOWS

#### ART. 1 – SCOPE OF THE CONTRACT

In the framework of the project “Support to the ODA coordination in Myanmar: Capacity Development of Donor Coordination (CAD-MM) - AID 11087”, the Client awards to the Consultant, who hereby accepts, the execution and the completion of the Consultancy within the “Technical Support activities to the Foreign Economic relations Department” for the project activities of the Italian Agency for Development Cooperation – AID 11087.

The scope of this Contract is to provide consultancy services of high qualified Technical Assistance in regards to the **pre-tender phase**, with a specific focus to the need assessment process and to provide a draft of the Terms of Reference for the Bid.

About the performance of the consultancy under this Contract, the Consultant shall neither seek nor accept instructions from any authority external to the Client.

#### ART. 2 – ACTIVITIES CARRIED OUT BY THE CONSULTANT

The activities carried out by the Consultant are described in Annex I- Quotation.

The days and hours of work of the Consultant’s personnel shall respect the Myanmar laws, regulations and customs and the requirements of the services.

While executing the Contract, the Consultant will interact with the Client providing regular updates, when needed, to the Director of the Italian Agency for Development Cooperation - Yangon Office and to the experts delegated by the Director for supervising the execution of the Contract, as well as perform the relevant interview and surveys to assess and verify the needs as set out below.

Based on the tasks listed and in accordance with the timeline indicated in the above-mentioned Annex I, the Consultant is expected to provide through its personnel the following services and deliverables for IT equipment, Internet line and Internet distribution:

1. Revision and verification of the needs and request from the Foreign Economic Relations Department (FERD) of the Ministry of Planning and Finance (MoPF) site in Naypyidaw, listed and detailed in Annex II;
2. Provision of an updated list along with an explanatory note and a cost estimation table;
3. Providing that the request of FERD is focused on the supply of the following items:
  - a) Connection with an internet Service Provider already identified in Annex II;
  - b) Design of a wireless system in the FERD Premises;



- a) 1. With reference to the item at point.3 (a), a setting up of the technical requirements to be complied with by the Service Provider and a confidential cost estimation table;
- b) 1. With reference to the item at point 3 (b), an identification of the IT equipment needed to set up a broad wireless system (100 users), along with the technical tools needed to broad the signal, and a confidential cost estimation table along with a layout of the wireless design (possible a single-line diagram);
4. Identification of video conferencing facilities and list of the equipment needed and a cost estimation cost table;
5. Overall confidential cost estimation table.

### **ART. 3 – CONTRACT AMOUNT**

The Consultant undertakes to execute and to complete the services indicated in the Annex I and the related Contract amount is of Myanmar Kyats 7.051.260 (seven million fifty-one hundred and two hundred and sixty), as indicated in the above-mentioned Annex I.

In full compliance with the provisions of the present Contract, the Contract can be renegotiated for a maximum amount of Myanmar Kyats 8.563.200 (eight million five hundred and sixty-three thousand two hundred). This amount includes the potential increase of expenses due to a renegotiation of the Contract, which can be determined after the execution of the service and the submission of the deliverable detailed at point 1 of the Annex 1 and Art. 2 – Activities carried out by the consultant, considering the possible need of additional services and deliverables.

Hence both Parties reserve the right to amend the Contract, prior written consent of both parties. The Contract amount includes all the activities, consultancies, personnel, vehicles, flights, equipment and supplies, travelling and/or any other charge, even if not specifically mentioned in this Contract, which is necessary to complete all the actions foreseen for the Consultancy, both in terms of quality and quantity.

The Consultant is solely responsible for the payment of service, tax, insurance and all other taxes and government dues as may be applicable. In no case the Client will be responsible to pay taxes for this Consultancy Contract.

### **ART. 4 - TERMS OF PAYMENT**

Payments will be made by the Client through bank transfer to the Myanmar Kyats bank account specified by the Consultant in two installments only after the submission of the following documents:

1. The deliverable as per points 1.and 2, specified in Annex I and Art. 2 of this Contract, reviewed and accepted by the Client;
2. The invoice showing the first installment amount equal to the 50% of the Contract amount specified in Annex I, upon completion of deliverable at point 1, above;





3. The remaining deliverables as per Annex 1 of this contract, detailed in the points following point 1 (i.e. Article 2 points 2, 3, 4 and 5), reviewed and accepted by the Client, by letter of approval;
4. The invoice showing the second and final installment equal to 50% of the Contract amount specified in Annex I, upon receipt of the letter of point 3 above.

The invoices shall be duly dated, stamped and signed by the Consultant.

All the above-mentioned documents shall be addressed to the Italian Agency for Development Cooperation (AICS) - Yangon Office – Project AID 11087.

#### **ART. 5 - DURATION OF THE CONTRACT**

The duration of the Contract is 4 (four) weeks starting from the signature of this Contract.

The duration of the Contract may be extended for a short period following a written request presented by the Consultant.

#### **ART. 6 – LIABILITY**

The Client accepts no liability for damage to persons or property related to the performance by the Consultant of the activities specified in this Consultancy Contract.

The Consultant shall execute the Contract with due care, efficiency and diligence in accordance with the best professional practice and shall comply with any administrative orders given by the Client.

The Consultant shall supply, without delay, any information and documents to the Client upon request, regarding the conditions in which the Contract is being executed.

The Consultant shall respect and abide by all laws and regulations in force in the Beneficiary Country and shall ensure that its personnel, their dependents, and its local employees also respect and abide by all such laws and regulations.

The Consultant shall indemnify the Client against any claims and proceedings arising from any infringement by the Consultant, its employees and their dependents of such laws and regulations.

To perform these tasks, the Consultant shall comply with all the legislation in force in the Country in the field of medical, insurance and safety measures.

The employment relationship between the Consultant and its staff employed by it to carry out the activities and any offspring from this litigation does not involve in any way the Client.

The Consultant shall at all time act impartially and as a faithful adviser in accordance with the code of conduct of its profession as well as with appropriate discretion. It shall refrain from making any public statements concerning the Project or the Services without the prior approval of the Client. It shall not commit the Client in any way whatsoever without its prior consent and shall make this obligation clear to the third parties.

The Consultant and its staff shall respect human rights and undertake not to offend the political, cultural and religious practices prevailing in the Country.

The Consultant shall refrain from any action that may adversely affect the FERD of the MoPF and shall fulfill its commitments with the fullest regard to the interests of the Client.

The payments to the Consultant under the Contract shall constitute the only income or benefit it may derive in connection with the Contract. The Consultant and its staff must not exercise any activity or receive any advantage inconsistent with their obligations under the Contract.

The Consultant commits itself to provide suitable qualified personnel and adequate means necessary for the implementation and supervision of the activities agreed upon in this Contract. The Consultant's personnel shall not be considered in any respect as being the employees or agents of the Client.

The Consultant is fully responsible for acts and contractual terms of its personnel according to the Myanmar law in force, including the relative fiscal dispositions. In no circumstances the Client will be responsible for the local personnel involved in the implementation of activities.

#### **ART. 7 – SUBCONTRACTING AND TRANSFERABILITY**

The Consultant is not allowed to subcontract the provision of these Services and/or to transfer the Contract to a third Party.

#### **ART. 8 – INTELLECTUAL AND INDUSTRIAL PROPERTIES RIGHTS**

All reports, data and supporting records or materials acquired, compiled or prepared by the Consultant in the performance of the Contract shall be confidential and shall be the absolute property of the Client.

The Consultant shall, upon completion of the Contract, deliver all such documents and data to the Client.

The Consultant may retain copies of such documents and data but shall not use them for purposes unrelated to this Contract without the prior written consent of the Client.

The Consultant shall not publish articles relating to the activities or refer to them when carrying out any service for others, or divulge information obtained from the Client, without its prior written consent.

Any results or rights thereon, including copyright and other intellectual or industrial property rights, obtained in performance of the Contract, shall be the absolute property of the Client, which may use, publish, assign or transfer them as it sees fit, without geographical or other limitation, except where intellectual or industrial property rights already exist.

#### **ART. 9 - TERMINATION OF THE CONTRACT**

This contract may be concluded by the Client at any time for serious technical and/or contractual non-compliance of the Consultant. In this case the Client shall notify such non-compliance to the Consultant, requesting to solve it within a specified period of 7 (seven) days. After this period, if the Consultant has not provided it, the resolution of the Contract shall become effective on the seventh day after the deadline fixed in the notice.

This assignment may also be terminated by mutual consent between the parties, and / or in the event of Force Majeure.

Moreover, the Client may also, at its unquestionable discretion, suspend or permanently solve the contract for security reasons.



In all cases mentioned above, the amount corresponding to the services satisfactorily provided will be paid to the Consultant.

#### **ART. 10 - FORCE MAJEURE**

Neither party shall be considered to be in default or in breach of its obligations under the Contract if the performance of such obligations is prevented by any circumstances of force majeure which arise after the date when the Contract becomes effective.

The term Force Majeure, as used herein, covers any unforeseeable events, not within the control of either Party and which by the exercise of due diligence neither party is able to overcome such as acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars whether declared or not, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosions.

A decision of the Italian Government/ the Italian Agency for Development Cooperation to suspend the Cooperation activities with the Beneficiary Country is considered to be a case of force majeure when it implies suspension of funding the Contract.

If either Party considers that any circumstances of force majeure have occurred which may affect the performance of its obligations, it shall promptly notify the other Party giving details of the nature, the probable duration and the likely effect of the circumstances.

#### **ART. 11 – CONFLICT OF INTEREST**

The Consultant shall take all necessary measures to prevent or end any situation that could compromise the impartial and objective performance of the Contract.

Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest.

Any conflict of interests which may arise during performance of the Contract shall be notified to the Client without delay.

In the event of such conflict, the Consultant shall immediately take all necessary steps to resolve it.

The Client reserves the right to verify that such measures are adequate and may require additional measures to be taken if necessary. The Consultant shall ensure that its staff, including its management, is not placed in a situation which could give rise to conflict of interests. Without prejudice to its obligations under the Contract, the Consultant shall replace, immediately and without compensation from the Client, any member of its staff exposed to such a situation.

#### **ART. 12 - SETTLEMENT OF DISPUTES**

The Parties shall make every effort to settle amicably any dispute, even technical, that may arise regarding the interpretation or execution of this Contract, during the progress of the activities or after its termination.



Once a dispute has arisen, a Party shall notify the other Party of the dispute, stating its position on the dispute and any solution which it envisages, and requesting an amicable settlement. The other Party shall respond to this request for amicable settlement within 30 days, stating its position on the dispute.

In the absence of an amicable settlement, a Party may notify the other Party requesting a settlement through conciliation by a third person.

If the amicable settlement procedure and, if so requested, the conciliation procedure fails, each party may refer the dispute to either the decision of the Italian jurisdiction or arbitration.

This doesn't mean, however, that the Client surrenders jurisdictional immunities and entitlements enjoyed by Diplomatic and Consular missions.

### ART. 13 – OFFICIAL COMMUNICATIONS

Any official communication from the Consultant concerning this Contract shall be written in English and shall be addressed to:

Italian Agency for Development Cooperation – Yangon Office,  
41-7B, Inya Myaing, Shwe Taung Gone, Bahan Township, Yangon, Myanmar.

### ART. 14 - FINAL PROVISIONS

The Parties of this Contract declare to have read this Contract, including its Annex, and that they agree with the same in all its parts and accept it fully.

The provisions of this Contract may be amended only by a formal Act signed by both Parties.

In witness whereof, the Parties hereto have signed the Contract.

Yangon, 26/03/2018

FOR

 NetSMART  
Co., Ltd.  
  
The Director  
Khin Thandar

FOR

The Italian Agency for Development  
Cooperation - Yangon Office

  
The Director  
Eng. Maurizio Di Calisto





STATE OF TEXAS  
COUNTY OF [illegible]



1000

[Faint, illegible text block, likely a body of a letter or document.]

[Faint, illegible text line, possibly a date or reference.]

[Faint, illegible text block, possibly a signature or name.]

[Faint, illegible text line.]

[Faint, illegible text block.]

[Faint, illegible text line.]

[Faint, illegible text line.]

[Faint, illegible text.]

[Faint, illegible text.]



[Faint, illegible text block, possibly a name or title.]

[Faint, illegible text block, possibly a name or title.]

*Notarized*

*see*





NetSmart Co., Ltd.

# 5-B, 18 Kyauk Kone Street  
Yankin Township  
Yangon, Myanmar

Tel: +95-1-8566034, 706584  
Fax: +95-1-8566034  
info@netsmart.com.mm  
www.netsmart.com.mm

## The Cloud ERP Provider

### Annex I

#### DELIVERABLES

Deliverables for IT equipment, Internet line and Internet distribution:

1. Revision and verification of the needs and request from the Foreign Economic Relations Department (FERD) of the Ministry of Planning and Finance (MoPF) site in Naypyidaw, listed and detailed in Annex II;
2. Provision of an updated list along with an explanatory note and a cost estimation table;
3. Providing that the request of FERD is focused on the supply of the following items:
  1. Connection with an internet Service Provider already identified in Annex II;
  2. Design of a wireless system in the FERD Premises;
    - a) 1. With reference to the item at let. a), a setting up of the technical requirements to be complied with by the Service Provider and a confidential cost estimation table;
    - b) 1. With reference to the item at let. b), an identification of the IT equipment needed to set up a broad wireless system (100 users), along with the technical tools needed to broad the signal, and a confidential cost estimation table along with a layout of the wireless design (possible a single-line diagram);
4. Identification of video conferencing facilities and list of the equipment needed and a cost estimation cost table;
5. Overall confidential cost estimation table.

#### COST ESTIMATION TABLE

IT Consulting Fee (Pre-Tender Phase)	Hour	Rate	Amount
Project Coordinator	5	70.00	460.00
Assistant Project Coordinator	50	40.00	2,000.00
Technical Lead	34	40.00	1,360.00
Technical Assistant	18	20.00	360.00
Travelling Cost for 3 Persons	4	300.00	1,200.00
			<b>MMK 7.051.260</b>

Resources:

- 1 x project coordinator x 1 day
- 1 x assistant to project coordinator x 8 days
- 2x technical engineers x 5 days

Time frame:

- 4 days in Naypyidaw including travel time
- 3 weeks in total

**PAYMENT DETAILS**

Payment Terms: 50% of the payment after Revision and verification of the needs and request from the Foreign Economic Relations Department (FERD) of the Ministry of Planning and Finance (MoPF) site in Naypyidaw, listed and detailed in Annex II and after the provision of an updated list along with an explanatory note and a cost estimation table.

The remaining balance of 50% will be paid based upon the provision the following deliverables:

- Connection with an internet Service Provider already identified in Annex II;
- Design of a wireless system in the FERD Premises
  1. With reference to the item at point 3 (a) a setting up of the technical requirements to be complied with by the Service Provider and a confidential cost estimation table;
  1. With reference to the item at point 3 (b), an identification of the IT equipment needed to set up a broad wireless system (100 users), along with the technical tools needed to broad the signal, and a confidential cost estimation table along with a layout of the wireless design (possible a single-line diagram);
- Identification of video conferencing facilities and list of the equipment needed and a cost estimation cost table;
- Overall confidential cost estimation table

Please transfer the payment to:



*Don*  
*du*

# Annex II

## IT EQUIPMENT

Brand	Technical Specifications	Quantity
Dell	XPS Tower 89100 Desktop	20
Dell	24" Monitor E2416H	20
Power Tree	UPS 1250 VA	20
Dell	XPS 15 9550 Laptop	20
Software	Windows Office	20
Canon	Image Class LBP 7100N Laser Color Printer	10
Canon	LBP 2900 Laser Printer	20
Canon	Image Runner Advance C-5235 Colour Copier	2
Canon	Image Runner Advance C-3320 B/W Copie	2
View Sonic	Projector PJD6350	4

- The brands indicated are those already used by MoPF/FERD and are required to ensure operational compatibility with existing equipment and therefore reduce ongoing maintenance costs to be covered by MoPF/FERD.
- The assessment has to include the verification on the availability of the brands and models requested by MoPF/FERD, the operational compatibility and the efficiency of the above-mentioned models and a explanatory note along with a detailed budget cost estimation. In case of some model is set out of production, they must be replaced by an equivalent Item of the same brand.

## INTERNET SERVICES

- The internet Service Provider selected by MoPF/FERD is MPT.
- Monthly Internet rate to pay to MPT with the appropriate characteristics required for fulfill the requirements set out below: Nominal Speed in Upload and in Download, Network bandwidth capacity, etc.
- Designing and mapping the internal distribution system, along with a list of the equipment and technologies suggested.
- Internal distribution will be WIFI for 100 points of use (to be defined with MoPF/FERD if this service will include mobile phones).

*Dear*  
*U*

- Lay-out and single line design of the scheme (including the range extenders of the modem of Wi-Fi Router/s) fitting the lay-out of the MoPF/FERD offices;

### **VIDEOCONFERENCE FACILITIES**

<b>Brand</b>	<b>Technical Specifications</b>	<b>Quantity</b>
Polycom RealPresence Group 500" system (or similar)	Videoconferencing Facilities Set	1
	Monthly Video Conferencing Line Rental (8 GBPS Connection)	

*De*  
*le*