REQUEST FOR PROPOSAL

To: ALL BIDDERS

CTBTO Ref. No.: 2018-0002/RAHMAN
(PLEASE QUOTE ON ALL COMMUNICATIONS)

Tel. No.: +43 (1) 26030-6350
Fax No.: +43 (1) 26030 5948
E-mail: procurement@ctbto.org

Date: 08 Jan 18

Attn: Phone:
Fax:
Email:

Subject: PTS Cybersecurity Awareness Program as per the attached Terms of Reference

Deadline for Submission: 31 Jan 18
Vienna Local Time: 17:00

The Preparatory Commission for the Comprehensive Nuclear Test-Ban-Treaty Organization (hereinafter referred to as the 'Commission') hereby invites you to submit a proposal that meets the requirements of the attached documents.

You are kindly requested to complete and return the acknowledgement form by fax or email as soon as possible.

If you have any questions you should contact the email address indicated above.

Yours Sincerely,

Courtney Linley
Chief, Procurement Section
ACKNOWLEDGEMENT FORM

<table>
<thead>
<tr>
<th>Solicitation No:</th>
<th>2018-0002</th>
</tr>
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<tbody>
<tr>
<td>Title:</td>
<td>PTS Cybersecurity Awareness Program as per the attached Terms of Reference</td>
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<tr>
<td>Closing Date:</td>
<td>31 Jan 18</td>
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<tr>
<td>Vienna Local Time:</td>
<td>17:00</td>
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Procurement Staff: Fazal Rahman
CTBTO Req. No.: 0010010282

Please complete 'A' or 'B' or 'C' and Return

WITHIN FIVE (5) DAYS
THE PREPARATORY COMMISSION FOR THE COMPREHENSIVE NUCLEAR-TEST-BAN TREATY ORGANIZATION (CTBTO)

by e-mail
procurement@ctbto.org

A: We shall submit our proposal

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<th>Company Name: ____________________________</th>
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B: We may submit and will advise

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<td>Email/Tel: ______________________________</td>
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C: We will not submit a proposal for the following reason(s)

- our current workload does not permit us to take on additional work at this time;
- we do not have the required expertise for this specific project;
- insufficient time to prepare a proper submission;
- we consider the funds are insufficient to carry out the work required;
- other (please specify) ________________________________

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<td>Contact Name: ____________________________</td>
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INSTRUCTIONS FOR PREPARATION AND SUBMISSION OF PROPOSALS

1. General

This Request for Proposal is for the provision of services as described in the attached documentation.

Your Proposal shall meet all requirements stated in the Terms of Reference. For this project, the Commission is seeking capabilities, which will ensure that the tasks are accomplished expeditiously and at a reasonable cost.

2. Documents included in this request for proposal (RFP)

This RFP consists of the following documents:

(a) Letter of Invitation
(b) These Instructions for Preparation and Submission of Proposals and its attachments A (Sample Format for Pricing)
(c) List of CTBTO Member States
(d) Statement of Confirmation
(e) Vendor Profile Form (to be completed only by bidders not registered with the Commission)
(f) Model Contract and Annexes A and B:
   - Annex A: Commission’s General Conditions of Contract
   - Annex B: Commission’s Terms of Reference

Note: In the event of award, the Proposal will be incorporated as Annex C to the Contract.

3. Amendment of RFP Documents

At any time prior to the closing date for submission of Proposals, the Commission may, for any reason, modify the RFP documents by amendment. The Commission may consider extending the deadline in order to allow adequate time for considering the modifications in the preparation of the Proposal.

4. Language of the Proposal

The Proposal and all correspondence and documents relating to it shall be in English.

5. Format and Submission of the Proposal

(a) The Proposal shall be typed, dated and signed by an official legally authorized to enter into contracts on behalf of your organization. The Proposal shall not contain any interlineations, erasures or overwriting except as necessary to correct errors, in which case such corrections shall be initialled by the authorized person(s) signing the Proposal.

(b) The Proposal shall be submitted as 1 (one) original and 2 (two) copies, each clearly marked as an “Original Proposal” or “Copy of Proposal.” In the event of any discrepancy between the documents, the original shall prevail.

(c) The envelope shall be clearly marked as follows:
1. Mailing Address and Closing Date

(a) The Proposal shall be sent to the following addressee:

Chief, Procurement Section  
Room E0524  
CTBTO, Vienna International Centre  
Wagramer Strasse 5  
A-1400 Vienna  
AUSTRIA  
E-mail: procurement@ctbto.org

(b) The Proposal shall be received by the above-mentioned addressee no later than the closing date indicated in the Letter of Invitation. Alternatively, the Proposal can be submitted electronically in PDF format at procurement@ctbto.org, provided it is duly signed by an official legally authorized to enter into contracts on behalf of your organization.

6. Requests for Clarifications and Contacting the Commission

The Commission will issue clarifications, if required. Bidders are requested to e-mail any questions pertaining to this RFP as soon as possible after receipt of the solicitation documents, but in any case no later than 7 business days prior to the Closing Date. No requests for clarifications will be entertained after this time. Questions will only be accepted via e-mail and should be sent to:

E-mail: procurement@ctbto.org  
Subject: Request for Clarifications re RFP No. 2018-0002

The Commission will make all reasonable efforts to issue the clarifications not later than 5 business days prior to the Closing Date.

Except for the case of responding to a RFP clarification, you shall not contact the Commission on any matter relating to the Proposal after its submission and until the award of the Contract. Any attempt to influence the Commission in its evaluation of the Proposal or the contract award decision may result in the rejection of the Proposal.
7. **Eligible Goods and Services**

The services and goods (if any) to be rendered under the Contract shall have their origin in the Member States of the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO), the list of which is attached to this RFP. For purposes of this paragraph, “the origin” means the place from where the materials, goods and/or from which the services are supplied.

### Use of former Preparatory Commission for the CTBTO (“Commission”) employees in the preparation of Proposals

A Bidder must not, in the absence of prior written approval from the Commission, permit a person to contribute to, or participate in, any process relating to the preparation of a Proposal or the procurement process, if the person:

- at any time during the 12 months immediately preceding the date of issue of the Solicitation was an official, agent, servant or employee of, or otherwise engaged by the Commission;
- at any time during the 24 months immediately preceding the date of issue of the Solicitation was an employee of the Commission personally engaged, directly or indirectly, in the definition of the requirements, project or activity to which the Solicitation relates.

8. **Type of Contract and Payment**

The Commission intends to conclude a Contract based on the attached Model Contract. The terms and conditions of payment are described in Clause 12 of the attached Model Contract.

9. **Preparation of the Proposal**

Your Proposal should contain, but not necessarily be limited to, the information described below.

Your proposal should be composed of the following separate parts:

I. **Technical Proposal**; and

II. **Financial Proposal**;

providing, but not limited to, the following information:

**PART I: TECHNICAL PROPOSAL**

Please state the reference number and the date of this RFP in your Proposal and any correspondence relating to it.

**NOTE:** No pricing information shall be included in the Technical Proposal.

**Personnel**

Please note that it is the bidder’s responsibility alone to obtain work permits or visa or similar for the personnel proposed to implement this project. The Commission will make no effort nor accept any responsibility for obtaining work permits or visa or similar for the Contractor’s personnel.

**Statement of Confirmation**

The attached Statement of Confirmation should be duly signed and submitted together with your Proposal.
Vendor Profile Form (VPF)
The form only needs to be submitted (duly signed and stamped) together with the Proposal by bidders not registered with the Commission.

Scope of Work
The Proposal shall include a brief description on how you will perform the Work and your overall plan for the execution of the tasks described in the Terms of Reference. You shall furnish such description by providing a section-by-section response or comments to the tasks described in the Terms of Reference. Any deviation from the Terms of Reference or other documents contained in the RFP shall be clearly stated and justified. The Commission reserves the right to accept or reject such deviations.

The Proposal shall also provide any other relevant issue which you would like to bring to the attention of the Commission whether or not having cost implications. This shall include details of warranties/manufacturer’s guaranties in respect to any items of the Station and/or Equipment

Personnel
The Proposal shall include:
(a) A statement that the capacity of the Contractor, in terms of qualified manpower resources, is adequate to conduct the Work during the establishment of the Station.
(b) A statement of availability of the personnel, and the minimum period required before starting the work under the Contract;
(c) A list of capable and experienced personnel, including their function and duration of assignment as key staff to work under the Project (such as Project Manager or Team Leader, etc);
(d) Curriculum vitae of the key staff proposed for this contract, including experience with standards and technical experience to perform the Work.

Sub-Contractors
The Proposal shall include names, legal status, address and qualifications of subcontractor(s), if any, involved in the Project and the scope of the subcontracted services. You shall provide a statement that your organization shall be fully responsible for the performance of your sub-contractors. All sub-contractors shall be legally established in one of the CTBTO Member States.

Model Contract
A statement that you have carefully reviewed the Model Contract and its Annexes and are in agreement with all its terms and conditions. Any deviations may be a factor in the award decision.

PART II: FINANCIAL PROPOSAL
Bidders are required to submit the Financial Proposal as follows:

Format of the Financial Proposal
The Financial Proposal shall be submitted in the format set out in Attachment A “Sample Format for Pricing” attached hereto. Bidders must provide all the information requested in this matrix but may provide additional related content as attachments.

Pricing
The quoted fees/rates shall be fixed for the duration of the Contract. The quoted fees/rates and travel expenses must include all overheads and ancillary expenses, unless otherwise stated in the Terms of Reference or Attachment A “Format of the Financial Proposal”. All individual items shall be stated in EURO or US Dollars and adequate justification and calculation must be included in the cost proposal. The sum of all individual costs shall be computed to constitute the total Contract Price.
Indirect Taxes
In principle the Commission is exempt from taxes. Since the arrangement under which such exemption is respected varies from country-to-country, the selected bidder will be informed by the Commission whether tax exemption will occur at source or whether taxes paid by the selected bidder will be reimbursed by the Commission upon submission of the original supporting documentation. “Taxes” means all direct and indirect taxes (including value added tax, general sales tax or goods and services tax), assessments, fees, customs duties, liens and charges in as much as they are levied in conclusion or implementation of the Contract, including customs restrictions and charges of similar nature in respect of articles imported or exported for the Commission’s official use.

(1) For Austrian companies
The price quoted shall be net of Taxes. All applicable Taxes payable by the selected bidder at the conclusion or implementation of the Contract in respect of the goods/services shall be quoted separately or be separately identified on the Proposal together with information on the nature of the tax and its method of calculation.

(2) For European Union (EU) Companies
The price quoted shall be net of Taxes. All applicable Taxes payable by the selected bidder at the conclusion or implementation of the Contract in respect of the goods/services shall be quoted separately or separately identified on the Proposal together with information on the nature of the Tax and its method of calculation. Due to the VAT exemption applicable to the Commission, no VAT will be charged to the Commission by the EU Suppliers under the Contract (Ref. EU VAT Council Directive 2006/112/EC, Article 151). A tax exemption certificate issued by the relevant Austrian authorities will be provided upon request.

(3) For Non-EU Companies
The price quoted shall be net of Taxes. All applicable Taxes payable by the selected bidder at the conclusion or implementation of the Contract in respect of the goods/services shall be quoted separately or be separately identified on the Proposal together with information on the nature of the tax and its method of calculation. For deliveries to Vienna, Austria, and due to the tax exemption at source applicable to the Commission, no Taxes shall be charged to the Commission under the Contract.

10. Completeness and Correctness of the Proposal
The Commission reserves the right to verify all information furnished by you in the Proposal through a source of its choice. Any inaccurate information so given may lead to the rejection of the Proposal.

11. Validity of the Proposal
Your Proposal shall be valid for 90 (ninety) days after the deadline for its submission to the Commission, unless an extension of validity has been requested by the Commission.

12. Correction of Errors
The Commission will check your Proposal for any arithmetic errors. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected.

13. Evaluation of the Proposal
(a) The technical evaluation shall include the following evaluation criteria:
   (i) compliance of the equipment with the Terms of Reference;
(ii) supplier’s qualifications;
(iii) Skills and Experience of Key Staff

(b) Subject to the conformance of the Technical Proposal to the equipment specifications, the Financial Proposal shall be evaluated as follows:
(i) contractual compliance;
(ii) commercial acceptability.

(c) The Commission, based on the evaluation method given above, will determine the Proposal, which is the “least costly technically acceptable Proposal

14. Negotiations of the Proposal

The Commission reserves the right to request clarifications on the Proposal and to enter into negotiations regarding technical or commercial aspects of the Proposal before awarding the Contract under this RFP.

15. Modification and Withdrawal of the Proposal

You may modify or withdraw your Proposal after its submission, provided that written notice of the modification or withdrawal is received by the Commission by the closing date for the submission of the Proposal. The Proposal may not be modified subsequent to the closing date without the consent of the Commission.

16. The Commission’s Right to Reject the Proposal

The Commission reserves the right to accept or reject the Proposal or to annul this procurement process at any time prior to the award of contract without having to inform the Invitee(s) of the grounds therefore, without thereby incurring any liability to the Invitee(s).

17. Costs of preparation and submission of the Proposal

Invitee(s) shall bear all the costs associated with the preparation and submission of its Proposal and the Commission will not be responsible or liable for those costs, regardless of the outcome of this RFP.

18. Subcontracting

In preparation of the Proposal you may cooperate with and subcontract other organizations or enterprises, which must be from the Member States of the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO). However, as the future contractor, you shall be fully responsible for the implementation of the project, including the performance of sub-contractors and shall alone be entitled to receive instructions from the Commission.

19. Proprietary Information

All documentation and information contained in this RFP are proprietary to the Commission and shall not be duplicated, used or disclosed -in whole or in part- for any purpose other than to evaluate them and respond to the Commission’s request for proposal or otherwise without prior written agreement of the Commission.
### Attachment A - Sample Format for Pricing

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**TOTAL for Year**

**Grand Total (Year-1 + Year-2 + Year-3 + Year 4)**

* Please add or remove lines as appropriate
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<td>Democratic Republic of the Congo</td>
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<td>Denmark</td>
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<td>Djibouti</td>
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STATEMENT OF CONFIRMATION

On behalf of (name of firm or organization): ______________________________,. I hereby attest and confirm that the firm/organization:

a) Possesses the legal status and capacity to enter into legally binding contracts with the Commission for the supply of equipment, supplies, services or work.

b) Is not insolvent, in receivership, bankrupt or being wound up, and not under administration by a court or a judicial officer, and that it is not subject to the suspension of its business or legal proceedings for any of the foregoing reasons.

c) Has fulfilled all its obligations to pay taxes and social security contributions.

d) Has not, and that its directors and officers have not, within the last five years been convicted of any criminal offense related to professional conduct or the making of false statements or misrepresentations as to their capacity or qualifications to enter into a procurement or supply contract.

e) That the Commission, in the event that any of the foregoing should occur at a later time, will be duly informed thereof, and in any event, will have the right to disqualify the firm/organization from any further participation in procurement proceedings.

f) That the Commission shall have the right to disqualify the firm/organization from participation in any further procurement proceedings, if it offers, gives or agrees to give, directly or indirectly, to any current or former staff member of the Commission a gratuity in any form, an offer of employment or any other thing of service or value, as an inducement with respect to an act or a decision of, or a procedure followed by, the Commission in connection with a procurement proceeding.

Name (print): _________________________  Signature: _________________________

Title/Position: _________________________

Place (City and Country): _______________________________________________________________

Date: _______________________________
## VENDOR PROFILE FORM (VPF) – FOR PRODUCTS/SERVICES/WORK

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<td>Legal Status (e.g. Partnership, Private Limited Company, Government Institution)</td>
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<td>Gross Annual Turnover (US$m)*:</td>
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<td>Annual Export Turnover (US$m)*:</td>
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<td>Type of Business/Products: Manufacturer</td>
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<td>13.</td>
<td>Type of Business/Services/Work: Engineering</td>
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<td>14.</td>
<td>References (your main customers, country, year and technical field of products, services or work): **</td>
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<td>Previous Supply Contracts with United Nations Organizations (over the last 3 years)**</td>
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<td>Organization:</td>
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<td>16.</td>
<td>Summary of any changes in your company’s ownership during the last 5 years:</td>
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* Please provide a copy of the most recent audited annual report and accounts. Note: Export includes services or work performed abroad or for foreign clients.
** Please provide supplementary documentation on these items.
17. List of Products/Services/Work offered (please indicate the Product/Service/Work # as per attached sheet):

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<th>Product/Service/Work #</th>
<th>Product/Service/Work Description</th>
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Questionnaire completed by:

18. Name: ___________________________  Title: ___________________________  Signature: ___________________________  Date: ___________________________

19. Evaluated By: ___________________________

   FOR CTBTO USE ONLY
   Initials: ___________________________  Date: ___________________________

20. Updated By: ___________________________

   Initials: ___________________________  Date: ___________________________

21. Remarks: ___________________________

22. Vendor Registration Number Allocated: ___________________________

   Not Accepted: [ ]

* Please provide a copy of the most recent audited annual report and accounts. Note: Export includes services or work performed abroad or for foreign clients.

**Please provide supplementary documentation on these items.
MODEL CONTRACT

between

THE PREPARATORY COMMISSION
FOR THE COMPREHENSIVE NUCLEAR-TEST-BAN TREATY
ORGANIZATION
(The Commission)

and

(The Contractor)

for

PTS INFORMATION SECURITY PROGRAM
CYBERSECURITY AWARENESS

January 2018

This Model Contract comprises this cover page, a table of contents, 10 (eleven) pages of text, a signatories page, and 3 (three) Annexes (A to C)
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<tr>
<td>2. Aim of the Contract</td>
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<tr>
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MODEL CONTRACT

This CONTRACT is entered into between THE PREPARATORY COMMISSION FOR THE COMPREHENSIVE NUCLEAR-TEST-BAN TREATY ORGANIZATION (hereinafter referred to as “the Commission”), having its headquarters located at Wagramerstrasse 5, 1400 Vienna, Austria, and [NAME OF THE CONTRACTOR] (hereinafter referred to as the “Contractor”), having its registered address located at [INSERT ADDRESS].

The Parties hereto mutually agree as follows:

1 DEFINITIONS

In this Contract, words and expressions shall have the same meanings as respectively assigned to them in the General Conditions of Contract and the Terms of Reference. In addition, the following words and expressions shall have the meanings hereby assigned to them:

“Annex A” means the Commission’s General Conditions of Contract.

“Annex B” means the Commission’s Terms of Reference.

“Annex C” means the Contractor’s Proposal.

“Contract” means this document, its Annexes and any further modifications or such further documents as may be expressly incorporated in this Contract by the Parties in accordance with Clause 20 below.

“Contractor” means the legal entity named in the preamble of this Contract or its successors. The Contractor shall be the only interface for all matters pertaining to execution of the Work under this Contract.

“Party(ies)” means the Commission and/or the Contractor, as the context requires.

“Rule(s)” means any regulation(s), official directive(s), ordinance(s), guideline(s), customs and practices.

“Taxes” shall mean all direct and indirect taxes (including value added tax, general sales tax or goods and services tax), assessments, fees, customs duties, liens and charges in as much as they are levied in conclusion or implementation of the Contract, including customs restrictions and charges of similar nature in respect of articles imported or exported for the Commission’s official use.
“Work”/“Services” mean all the goods and services to be provided by the Contractor, including its affiliates and/or subcontractors, in order to fulfil all its obligations under the Contract, and the remedying of any defects therein.

2 AIM OF THE CONTRACT

The aim of this Contract is to provide “Maintenance Services for the Data Centre UNIX-Based Servers and Systems for the period 2018 – 2021” to the Commission.

3 ENTRY INTO FORCE, DURATION OF THE CONTRACT AND COMMENCEMENT AND COMPLETION OF THE WORK

(a) The Contract shall enter into force upon the date of the last signature by the authorized Representatives of the Parties (hereinafter referred to as the “Effective Date”) and shall be valid until the Parties fulfill all their obligations hereunder.

(b) The Commission shall have the option, but not the obligation, to extend the Services Period up to four (4) times, for a period of twelve (12) months each, subject to the availability of funds, under the same terms and conditions of the Contract. The Commission will notify the Contractor its decision to extend the Maintenance Period at least one (1) month prior to the expiry of the respective Maintenance Period. The optional extension(s) will be implemented through a written notification to the Contractor by the Commission.

4 STANDARD OF WORK

The Contractor shall perform the Work in a workmanlike manner in conformity with standard professional practices, using qualified personnel and in strict accordance with the Contract. The Contractor shall furnish the highest skill and judgement and cooperate with the Commission, including all the Commission's consultants and agents, in best furthering the interests of the Commission and the aim of this Contract. The Contractor shall provide efficient business administration and supervision, and it shall perform the Work in the best way and in the most expeditious and economical manner consistent with the requirements of the Contract.

5 RESPONSIBILITIES OF THE CONTRACTOR

(a) The Contractor shall provide the Work described in Annex B and C.

(b) The Contractor shall provide qualified English-speaking personnel as necessary to perform the Work under this Contract. The key persons shall be available for possible tasks related
to the Work throughout the duration of the Contract period. Any replacement of the key personnel shall be made in accordance with Clause 7 of Annex A.

6 WARRANTY

(a) The provisions of Clause 28 of Annex A shall apply to the Services performed by the Contractor, wherever it refers to “Goods” shall read “Services”.

(b) The Contractor shall ensure that the Commission shall experience no loss of service or support level by sub-contractors or repair agents acting on behalf of the Contractor.

7 PERMITS, NOTICES, LAWS AND ORDINANCES

(a) The Contractor shall obtain and pay for all permits and inspections necessary for the proper execution and completion of the Work that are customarily obtained upon execution of this Contract and that are legally required at the time the Proposal is received by the Commission. This shall include, but not be limited to, work permits, visa, or similar.

(b) The Contractor shall give all notices required by the nature of the Work.

(c) If the Contractor notices that the Work or any part thereof required under this Contract is not in accordance with applicable laws and Rules, or with technical or safety standards, it shall promptly notify the Commission thereof in writing.

8 PROTECTION OF PERSONS AND PROPERTY

(a) The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programmes in connection with the Work.

(b) The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury and loss to:

(i) all employees on the Commission’s premises and all other persons who may be affected thereby;

(ii) all the Work, Equipment, its spare parts, materials and supplies to be incorporated therein, whether in storage on or off the Commission’s premises, which are under the care, custody or control of the Contractor or any of its subcontractors; and
(iii) other property on the Commission’s premises or adjacent thereto.

(c) The Contractor shall give all notices and comply with all applicable laws and Rules bearing on the safety of persons and property and/or their protection from damage, injury and loss.

(d) The Contractor shall erect and maintain, as required by existing conditions and progress of the Work, all reasonable safeguards for the safety and protection of persons and property, including posting danger signs and other warnings against hazards and promulgating safety regulations.

(e) When the use or storage of combustible, explosive or other hazardous materials is necessary for the execution of the Work, the Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel.

(f) The Contractor shall be responsible for the prevention of accidents on the Commission’s premises during the execution of the Work.

(g) In any emergency affecting the safety of persons or property, the Contractor shall promptly act to prevent threatened damage, injury and loss.

(h) The Contractor shall promptly remedy all damage and loss to any property, referred to in Sub-Clause (b) above, caused in whole or in part by the Contractor, any subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Contractor is responsible under Sub-Clause (b) above, except damage and loss attributable to the acts or omissions of the Commission or anyone directly or indirectly employed by it, or of anyone for whose acts the Commission may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to its obligations under Clause 9 of Annex A.

9 RESPONSIBILITIES OF THE COMMISSION

The Commission shall designate members of its staff to act as points of contact for the Contractor to ensure that the Services are carried out in accordance with Annexes B and C, and shall promptly notify the Contractor thereof. The Commission shall respond promptly to requests for information by the Contractor regarding the Services.
10 CONTRACT PRICE

The Commission shall pay to the Contractor in consideration of the full and proper performance of its obligations under the Contract the following:

(i) For the Services during the initial Period of the Services, the firm fixed prices specified in Annex C;

(ii) Subject to clause 3(b) above, for the first optional extension of the Services Period, the firm fixed prices specified in Annex C;

(iii) Subject to clause 3(b) above, for the second optional extension of the Services Period, the firm fixed prices specified in Annex C;

(iv) Subject to clause 3(b) above, for the third optional extension of the Services Period, the firm fixed prices specified in Annex C;

(v) Subject to clause 3(b) above, for the fourth optional extension of the Services Period, the firm fixed prices specified in Annex C;

hereinafter referred to as the “Contract Price”.

(c) The Contract Price shall also cover all costs and expenses incurred by the Contractor for the full and proper performance of all obligations under the Contract (including travel, allowances, management and remuneration of the personnel, national income tax, medical insurance, and social security contributions). It shall also include work performed by the Contractor’s personnel outside the Commission’s normal working hours.

(d) The Contract Price shall be firm and fixed and shall not be subject to escalation. The Contractor shall not do any work, provide any materials or equipment, or perform any services which may result in any charges to the Commission over and above the Contract Price without the prior written consent of the Commission and a formal written amendment to this Contract.

(e) PLEASE SELECT, AS APPLICABLE, ONE OF THE FOLLOWING AT THE TIME OF AWARD):

[Identify type [and amount] of Taxes] is/are applicable under this Contract. The Contractor shall be reimbursed by the Commission for such taxes on the basis of actual amounts paid and duly documented by the Contractor as per Clause 11(e).
OR

No Taxes are applicable under this Contract.

11 PAYMENT

(a) The Contract Price shall be paid upon acceptance by the Commission of the Services as specified in Annex B and submission of the followings:

(i) Invoice drawn up in accordance with this Clause 11;
(ii) Any other document that might be required under the applicable Commission’s notification.

(b) The Commission shall make the payments to the Contractor on the basis of an invoice submitted by the Contractor as per 12(d) below. All payments shall be made within 30 (thirty) days of the receipt and acceptance of the invoice, provided that the Work has been satisfactorily completed and has been accepted by the Commission.

(c) The making of any payment hereunder by the Commission shall not be construed as an unconditional acceptance by the Commission of the Work accomplished by the Contractor up to the time of such payment.

(d) The Contractor shall submit an invoice in 1 (one) original and 2 (two) copies or electronically, from the Contractor’s official e-mail address in PDF format, duly signed and sealed by the Contractor and submitted to the Commission’s email address specified in Clause 20 below. Each invoice shall contain the Contract number (CTBTO and SAP numbers), detailed banking instructions, including the name and address of the Contractor's bank, account number, account holder’s name and SWIFT, IBAN and/or ABA codes for payment by electronic transfer.

(e) Applicable Taxes payable by the Contractor and/or its subcontractor(s) in respect of the Work shall be invoiced separately or be separately identified on the invoice. Actual payment of the Taxes must primarily be supported by original documentation such as bank account statements, transfer orders, or receipts issued by the local tax or customs authorities. If submission of such original documentation is not possible for justifiable reasons, their copies could be accepted by the Commission provided that they are duly signed and certified by local tax or customs authorities. In case the currency in which the taxes are levied is not the currency of the Contract, bank statements (or equivalent)
showing the exchange rate used for the conversion should be submitted to the Commission, in addition to any other supporting documentation.

12 TEMPORARY SUSPENSION OF WORK

The Commission may, at any time, temporarily suspend the Work, in whole or in part, being performed by the Contractor under this Contract by giving 30 (thirty) days’ advance notice in writing to the Contractor. The Work so suspended shall be resumed by the Contractor on the basis of a revised time schedule and on terms and conditions to be mutually agreed upon between the Parties.

13 DELAYS AND EXTENSION OF TIME

(a) If the Contractor is delayed at any time in the progress of the Work by any act or omission of the Commission or by any of its employees, or by any other contractor employed by the Commission, or by changes in the Work ordered by the Commission, or by any causes beyond the Contractor’s reasonable control, or by any other cause which the Commission determines may justify the delay, then the time for completion of the Work shall be extended by an amendment to this Contract in accordance with Clause 19 below for such reasonable time as the Commission may determine.

(b) Any request for extension of the time for reasons referred to in Clause 14(a) above shall be submitted to the Commission not later than 20 (twenty) days after the commencement of the delay, otherwise said request shall be deemed to be waived. Such request shall state grounds for the delay and shall provide an estimate of the probable effect of such delay on the progress of the Work.

14 CONTRACTOR’S CLAIMS AND REMEDIES

In no event shall the Contractor make any claim against the Commission for or be entitled to additional costs or compensation resulting from any delays in the progress or completion of the Work or any portion thereof, whether caused by the acts or omissions of the Commission, including, but not limited to, damages related to overheads, loss of productivity, acceleration due to delay and inefficiency. The Contractor’s sole remedy in such event shall be an extension of time for completion of the Work, provided the Contractor otherwise meets the requirements and conditions set forth in this Contract.
15 ENTIRE AGREEMENT

This Contract represents the final agreement in respect of the Services and shall supersede all prior agreements and representations between the Parties in this respect. Annexes A to C shall constitute integral parts of this Contract and shall be of full force and effect.

16 DISCREPANCIES

If there are discrepancies or conflicts between any of the documents that are part of this Contract, the document to prevail shall be given precedence in the following order:

(i) this document;

(ii) General Conditions of Contract (Annex A);

(iii) Terms of Reference (Annex B);

(iv) Contractor’s Proposal (Annex C);

17 SEVERABILITY

If any term and/or provision of this Contract is or becomes invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Contract shall not in any way be affected or impaired thereby.

18 NO WAIVER

Failure by a Party to enforce a right shall not be deemed to be a waiver of that right unless otherwise expressly provided in this Contract.

19 CONTRACT AMENDMENT

No modification of, or change in, this Contract, or waiver of any of its provisions, or additional contractual relationship with the Contractor shall be valid unless approved in the form of a written amendment to this Contract, signed by duly authorized Representatives of the Contractor and of the Commission.
20  TRANSMISSION OF NOTICES AND OTHER DOCUMENTS

Notices, invoices, reports and other documentation under the Contract shall be delivered or sent to the relevant Party as follows (or to such person/title, address, facsimile number or email address as the Party may substitute by notice after the date of the Contract):

(a)  The Commission:

For Contractual Issues:

Chief, Procurement Section
Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO)
Vienna International Centre
Wagramerstrasse 5, P.O. Box 1200
1400 Vienna, Austria
Tel: + (43 1) 26030 6350
Fax: + (43 1) 26030 5948
E-mail: procurement@ctbto.org

For invoices and related enquiries:

Accounts Payable
CTBTO Financial Services Section
Vienna International Centre
Wagramerstrasse 5, P.O. Box 1200
1400 Vienna, Austria
Tel: + (43 1) 26030 6292
E-mail Payments@ctbto.org

(b)  The Contractor:

[Insert details]

21  EFFECTIVENESS

(a)  Except as provided below, any communication in connection with the Contract will be deemed to be given as follows:

(i)  if delivered in person, at the time of delivery;

(ii) if by registered mail or courier, when received;

(iii) if by fax, when received in legible form;

(iv) if by electronic communication, when retrievable by the Commission in document form.
(b) A communication given under Clause 21(a) above that is received or becomes retrievable on a non-working day or after business hours at the seat of the Commission will only be deemed to be given on the next working day of the Commission.
IN WITNESS hereof, the duly authorized Representatives of the Parties have executed this Contract:

For and on behalf of the PREPARATORY COMMISSION FOR THE COMPREHENSIVE NUCLEAR-TEST-BAN TREATY ORGANIZATION:

[Name, Position/Title]

Date: ___________________            Place: Vienna, Austria

For and on behalf of [REGISTERED NAME OF THE CONTRACTOR]:

[Name, Position/Title]

Date: ___________________            Place: ______________

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Model Contract – PTS Information Security Program Cybersecurity Awareness
January 2018
Annex B

Terms of Reference

PTS Information Security Program
Cybersecurity Awareness

January 2018
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1. INTRODUCTION

The Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organisation (hereafter referred to as “the Commission” or “PTS”), located in Vienna, Austria, is the international organisation establishing the global verification system under the provisions of the Comprehensive Nuclear-Test-Ban Treaty (CTBT), which bans any nuclear weapon test explosion or any other nuclear explosion. The verification system includes the International Monitoring System, a global network of monitoring stations (radionuclide technologies: particulate and noble gas; waveform technologies: seismic, hydro-acoustic and infrasound), a Global Communications Infrastructure (GCI), an International Data Centre (IDC) and the capability to carry out on-site inspections.

The PTS has been pursuing the implementation of a Cybersecurity Awareness Program (herein referred to as PTS Cyber Awareness Program) in support of the CTBTO Information Security Policy (Administrative Directive #65) and to address SWIFT (https://www.swift.com) and other International regulatory compliance requirements.

The PTS Cyber Awareness Program is also intended to help implement a more efficient and effective security posture of PTS information security (IS) systems and business processes while continuously ensuring high levels of organizational cyber culture based on industry trends, reputable standards, methodologies and frameworks.

As part of this effort, a number of products and services currently available in the industry, from various companies were considered. These Terms of Reference (‘ToR’) define the technical requirements that products shall comply with as well as overall framework (Service Level Requirements) to be carried out by the Contractor.
2. SCOPE OF WORK

2.1. PTS Cyber Awareness E-Learning Program (the “Product”)

The Contractor shall plan and provide the following:

2.1.1. PTS Cyber Awareness E-Learning Integrated Platform

- One (1) online (web-based) cyber awareness course (for max. 500 users), including all training materials, documentation, and completion certification.
- One (1) online (web-based) cyber phishing simulation platform (for max. 500 users). The phishing simulation platform and service shall be provided as an external Contractor-managed service;

2.1.2. PTS Cyber Awareness Externally Managed Service (Software as a Service – SaaS)

- Cyber awareness services and support materials including all training materials, documentation, phishing sessions and completion certification. The service shall be provided as an external Contractor-managed service.

2.2. Delivery Date

The Contractor is expected to provide the services and products under the provisions stipulated by the herein ToR as soon as possible. Preferred delivery date is 1 March 2018.

2.3. Technical Requirements

M.1. The Contractor and its proposed solution (product) shall present international recognition and reputation in cybersecurity and computer-based training (CBT) industry;
M.2. The Product shall be computer based (CBT), available online (Web-based) in order to allow PTS staff access from Internet (any location world-wide);
M.3. The Product shall present modular structure to ensure flexibility in scope and depth of topics as well as to allow PTS staff to complete the training in several sessions as time permits;
M.4. The Product shall present materials and features in English.
O.5. The Product should present multi-language features;
M.6. The Product shall be interactive, quiz-based;
M.7. The Product shall provide PTS Management with robust reporting tools including but not limited to: Completion Reports and Metrics while maintaining the anonymous character of the recorded data (no data pointing at a specific user shall be recorded but the overall Fail/Succeed ratio);
M.8. The Product shall present recommended areas of improvement and categories of staff that should undergo additional training;
M.9. The Product shall present flexibility of deployment and management of operations (remote managed service/ SaaS);
M.10. The Product’s content shall be periodically updated/ upgraded by the Contractor;
M.11. The Product shall allow customization in order to comply with PTS user requirements in terms of interfaces, logos, type of content, depth and coverage;

---

1 M: Mandatory Requirement

2 O: Optional Requirement
M.12. The Contractor shall provide the PTS with support services for the entire period of the license (as outlined in paragraph 2.2 above);
M.13. The Product shall present simulation features where real-life cyberattacks (such as phishing) can be conducted against the PTS with the intent of educating CTBTO staff and improving their awareness levels;
M.14. The Product shall be easy to implement (remote managed service) easy to use and customize (custom templates, targeted groups of staff, schedules, s.o.)
O.15. The Product should present “Certification and Awards” features where staff is presented with a “Certificate of Completion” or diploma upon successful completion of assigned training modules/ interactive quizzes;
M.16. The Product shall present flexibility in defining specific target training sessions for specific types of employees including but not limited to: Finance and Procurement staff (SWIFT), HR and Legal staff, Engineering and technical support services staff;
M.17. The Product shall be deployable via Web-based interfaces employing various platforms from Microsoft Windows to mobile Platforms (Android and Apple) and Browsers (from IE to Chrome, Safari, Firefox);
M.18. The Product shall present authentication and authorization mechanisms (user login and password or digital certificate);
O.19. The Product should support or implement 2FA mechanisms;
O.20. The Product should be easily integrated with PTS Single Sign on capabilities and authentication mechanisms;
M.21. The Product shall present specifically tailored dashboards (user dashboard, manager dashboard, program manager dashboard) and associated notification mechanisms (assignment, status, completion rate, s.o);
M.22. The Contractor and the provided solution (including platform, service, materials, staff) shall present formal proof of compliance (certificates) with one or more of the cybersecurity standards including but not limited to ISO, NIST, SANS, Cobit, SWIFT).

2.4. Service Level Requirements

M.23. The Contractor shall ensure continuity of service for one (1) year (365 days) with possibility of four (4) optional extensions of 1 year each;
M.24. The Contractor shall support PTS with necessary expertise and manpower to deliver the service and product as per above technical requirements;
M.25. The service and platform (including materials, interfaces, and staff) shall be available to PTS staff on a 24x7x365 basis with an availability ratio of at least 90% (including maintenance windows and potential outages).

2.5. Legal Compliance Requirements

M.26. The Contractor and its proposed solution (product) shall have established points of presence across at least one European Union (EU) country and abide by EU’s rules and regulations;
M.27. The Contractor and its proposed solution shall host its services and associated infrastructure (data centres, servers, storage units) on the EU territory and be compliant with the European legislation pertaining to cross-border data traffic and storage of sensitive information regulations.

2.4. Materials and Documentation

M.28. All materials, interfaces and documentation (‘Materials’) shall be presented in English and be provided to the Commission in hard copy and electronic format (Adobe Acrobat and/or MS Office format).
M.29. The Materials used in the Courses (‘Course Materials’) shall be fully compliant with industry standards as outlined in paragraph 2.3. The Contractor shall provide final drafts of the ‘standard’ set of Materials (including but not limited to dashboards, logos, headers, diplomas,
certificates) to be used for each type of course throughout the term of the Contract within two (2) weeks after signature of the Contract to the Commission for review. The Commission will provide comments, if any, within one (1) week thereafter which shall be incorporated by the Contractor into the final set of Materials. The Contractor shall plan together with the Commission and provide the Courses based on final sets of Materials. Any changes made by the Contractor to these standard sets, either on its own initiative or upon a request from the Commission, shall be subject to the Commission’s approval for use in forthcoming courses. Changes due to particular detailed course requirements shall be submitted to the Commission.

2.5. Contractor’s Staff

O.30. The Contractor should provide an optional introductory (live training) course, designed to help the PTS set-up and run the program;

M.31 The Contractor shall ensure that expertise and specialized staff is made available, on-demand, to PTS staff involved in providing training services;

M.32 The Contractor shall provide primary points of contacts (Contract Manager) who will serve as a planning, onboarding and key point of escalation throughout the purchased license period;

M.33 The Contractor’s Contract Manager shall provide PTS Management with expertise and support (such as planning sessions, quarterly service reviews, incident resolution) in order to ensure high level of success (managed service deliverables) and customer satisfaction.

2.6. Input from the Commission

The Commission will make one (1) staff available to the Contractor as a single point of contact for all issues arising from the implementation of the Contract.

The Commission will work with the Contractor on planning the program agenda, schedule, targeted staff and type of activity (training, evaluation, simulation). The Commission will make all reasonable efforts to make the requested or, in agreement with the Contractor, equivalent equipment (if required) available to the Contractor.

The Commission will perform course registration and placement of staff. The Commission shall have the right, at no extra cost, to re-schedule the training and/or simulation activities and register the remaining participants for another session.

3. REQUIREMENTS FOR THE CONTRACTOR AND ITS PERSONNEL

3.1. Contractor

M.34 The Contractor shall ensure service availability and sufficient resources (particularly certified trainers) to perform the Contract; and

M.35 The Contractor shall present proven track of record in designing and implementing Cyber Awareness training programs within international setting, preferably in the setting of a public international organization.

3.2. Contractor’s Key Personnel

Each of the Contractor’s key personnel developing the material shall meet or exceed the following requirements:

M.36 Fully qualified trainer certified by the relevant certifying bodies to conduct the courses conducted;
M.37 Proven track record of:
   o Implementing Cyber Awareness standards and regulatory compliance controls in a professional environment;
   o Conducting Cyber Awareness simulation exercises (phishing) in a professional environment;

M.38 Fluency in written and spoken English.

4. COURSE OUTLINE REQUIREMENTS

Modules that the Product should contain at a minimum:

M.39 Social Engineering
M.40 Internet security: Web surfing, Email, Phishing and Messaging
M.41 Social Media security
M.42 Mobile Device Security
M.43 Information/ data security
M.44 Malware/ Hacking
M.45 Inside Threat
M.46 Teleworking security
M.47 International Travel Security
M.48 Privacy Security
1. DEFINITIONS

(a) In these general conditions of contract the terms beginning with a capital letter shall have the meaning as defined in the Contract.
(b) “Services” means all services to be rendered under the Contract.
(c) “Goods” shall mean all goods, equipment, materials and/or other supplies to be provided under the Contract.
(d) “Taxes” shall mean all direct and indirect taxes (including value added tax, general sales tax or goods and services tax), assessments, fees, customs duties, liens and charges in as much as they are levied in conclusion or implementation of the Contract, including customs restrictions and charges of similar nature in respect of articles imported or exported for the Commission’s official use.

2. LEGAL STATUS

The Contractor shall be considered as having the legal status of an independent contractor vis-à-vis the Commission. Neither the Contractor and any subcontractor, nor their personnel shall be considered to be an employee or an agent of the Commission.

3. ASSIGNMENT

The Contractor shall not assign, transfer, pledge or make other disposition of the Contract or any part thereof, or any of the Contractor’s rights, claims or obligations under the Contract except with the prior written consent of the Commission.

4. SUBCONTRACTING

In the event the Contractor requires the services of one or more subcontractors, the Contractor shall obtain the prior written approval and clearance of the Commission for such subcontractor(s). The Commission’s approval of a subcontractor shall not relieve the Contractor of any of his obligations under the Contract, and the terms of any subcontract shall be subject to and in conformity with the provisions of the Contract.

5. SOURCE OF INSTRUCTIONS

(a) The Contractor shall neither seek nor accept instructions from any authority external to the Commission in connection with the performance of its obligations under the Contract. The Contractor shall refrain from any action which may adversely affect the Commission and shall fulfil its commitments with the fullest regard to the interests of the Commission.
(b) While present at the Commission’s premises, personnel of the Contractor shall, at all times, obey and conform to all requests and instructions of the Commission’s officials and the United Nations Security Staff.

6. CONTRACTOR’S RESPONSIBILITY FOR EMPLOYEES

The Contractor shall be responsible for the professional and technical competence of its employees and will select, for the performance under the Contract, reliable individuals who will perform effectively in the implementation of the Contract, respect the local customs and conform to a high standard of moral and ethical conduct.

7. ASSIGNMENT OF PERSONNEL

(a) The Contractor shall not replace or withdraw any personnel referred to in the Contract for the performance of the Services without the prior written approval of the Commission or unless requested by the Commission.
(b) Prior to assignment, replacement or withdrawal of personnel for the performance of the Services, the Contractor shall submit to the Commission for its consideration, the curriculum vitae or detailed justification to permit evaluation by the Commission of the impact which such assignment, replacement or withdrawal would have on the Services.
(c) In the event of withdrawal of personnel, all costs and additional expenses resulting from the replacement, for whatever reasons, of any of the Contractor’s personnel shall be for the account of the Contractor. Such withdrawal shall not be considered as termination in part or in whole of the Contract.

8. CONFLICT OF INTEREST

No employee, officer, adviser, agent and/or subcontractor of the Contractor assigned to perform Services under the Contract shall engage, directly or indirectly, in any business, profession or occupation connected or related to the Services or Goods to be provided under the Contract if this constitutes a conflict of interest.
9. INSURANCES

(a) The Contractor shall provide and thereafter maintain appropriate insurance, or its equivalent, with respect to its employees to cover claims for personal injury or death in connection with the Contract.
(b) The Contractor shall provide and thereafter maintain insurance against all risk in respect of its property and any equipment used for the execution of the Contract.
(c) The Contractor shall also provide and thereafter maintain liability insurance in an adequate amount to cover third party claims for death, bodily injury, loss of and damage to property arising from any operations carried out by the Contractor in performing its obligations in connection with the Contract or from operation of any vehicles, boats, airplanes and other equipment owned or leased by the Contractor or its agents, servants, employees or subcontractors.
(d) Except for insurance mentioned in paragraph (a), the insurance policies under this clause shall:
   (i) Name the Commission as additional beneficiary;
   (ii) Include a waiver of subrogation of the Contractor’s rights to the insurance carrier against the Commission.
(e) The Contractor shall, upon request, provide the Commission with satisfactory evidence of the insurance required under the Contract.
(f) Any amounts not insured, not recovered from or not claimed by the insurer shall be borne by the Contractor.
(g) Information concerning reduction of coverage shall be furnished by the Contractor to the Commission with at least thirty (30) days prior written notice.
(h) The Contractor undertakes that provisions to the same effect as the provisions in sub-clauses (a) through (c) above will be inserted in all subcontracts made in performance of the Contract, except sub-contracts exclusively for furnishing Goods.

10. ENCUMBRANCES/LIENS

The Contractor shall not cause or permit any lien, attachment or other encumbrance by any person to be placed on file in any public office or on file with the Commission against any monies due or to become due for any Services or Goods provided under the Contract, or by reason of any other claim or demand against the Contractor.

11. OBSERVANCE OF THE LAW

(a) The Contractor shall comply with all laws, ordinances, rules and regulations, including but not limited to health, environmental and labour laws bearing upon the performance of its obligations under the terms of the Contract.
(b) In particular, the Contractor shall comply with the labour laws of the country in which the Services or Goods are to be furnished providing for benefits covering injury or death in the course of employment.

12. CONFIDENTIALITY

(a) All technical, financial or other documentation and data the Contractor compiled for or received from the Commission under the Contract shall be treated as confidential and shall be delivered only to the Commission’s authorized officials on completion of the Services or as requested by the Commission.
(b) Either Party acknowledges that all knowledge and information concerning the other Party that may be acquired in connection with the performance of its obligations under the Contract, including but not limited to, any information relating to its operations and procedures, are confidential and proprietary information of the other Party and it shall receive such confidential and proprietary information of the other Party in confidence and shall not disclose or permit disclosure of any such knowledge or information to any person and/or entity without the prior written consent of the other Party.
(c) The Contractor shall not, at any time, use such confidential information to its own advantage.
(d) The restrictions on confidentiality shall not apply to the information which:
   (i) presently is in the public domain;
   (ii) hereafter becomes part of the public domain without the other Party’s fault;
   (iii) was in the possession of the other Party at the time of the disclosure, as shown by written evidence;
   (iv) is disclosed to the other Party at any time hereafter by a third Party.
   (v) is required to be disclosed to governing bodies, or to governmental authorities to the extent required by law or to obtain needed authorization to perform the Contract or pursuant to reporting requirements imposed by those governing bodies or the government of the State of the Contractor.
(e) These obligations do not lapse upon satisfactory completion of the Services, delivery of the Goods or termination of the Contract by the Commission.

13. LANGUAGES, WEIGHTS AND MEASURES

Unless otherwise specified in the Contract, the English language shall be used by the Contractor in all written communications to the Commission with respect to the Services or Goods to be provided and all documents procured or prepared by the Contractor. The Contractor shall use metric units, except when otherwise specified in the Contract.

14. PUBLICITY

(a) The Contractor shall not advertise or otherwise make public the fact that it is providing or has provided Services and Goods for the Commission. Also, the Contractor shall not, in any manner whatsoever, use the name, emblem or official seal of the Commission or any abbreviation of the name of the Comprehensive Nuclear-Test-Ban Treaty Organization in connection with its business or otherwise.
(b) These obligations do not lapse upon satisfactory completion of the Services, delivery of the Goods or termination of the Contract.
15. OFFICIAL NOT TO BENEFIT/CONTINGENT FEES

(a) The Contractor warrants that:
   (i) No person or selling agency has been employed or retained by it to solicit or secure the Contract upon an agreement or understanding for a commission, percentage, brokerage, contingent fee or retainer, except regular employees or bona fide and officially established commercial or selling agencies maintained by the Contractor for the purpose of securing business;
   (ii) No official or servant or retired employee of the Commission who is not a regular employee of the Contractor, has been or shall be admitted by the Contractor to any direct or indirect benefit arising from the Contract or the award thereof.
(b) In case of breach by the Contractor of the warranties referred to in previous clauses, the Commission shall have the right to deduct from the Contract Price, or otherwise recover from the Contractor, the full amount of any such commission, percentage, brokerage, contingent fee or retainer so paid.

16. INTELLECTUAL PROPERTY AND OTHER PROPRIETARY RIGHTS

(a) Except to the extent the Contractor has granted a license to the Commission, the Commission, shall be entitled to all intellectual property, including but not limited to copyrights, patents and trademarks, with regard to products, documents or other materials which bear a direct relation to or are produced or collected under the Contract. The Contractor shall take all necessary steps, prepare and process all necessary documents and assist in securing such property rights and transferring them to the Commission and/or to the government where the Services or Goods are to be provided, in compliance with the requirements of the applicable law.
(b) The Contractor declares that it does not know of any intellectual property rights of third parties, which might be infringed in the execution of the Contract. Should, contrary to the Contractor’s expectation, claims be raised against the Commission charging it with infringement of intellectual property rights, the Contractor shall hold harmless the Commission and shall indemnify it to the full extent of any damages or awards arising from such claims. This obligation of the Contractor shall continue to be in full force and effect up to the expiration of such intellectual property rights.
(c) The Commission shall give the Contractor due notice in writing of any charges of infringement brought against the Commission and of the filing of any suit for infringement of intellectual property rights of third parties due to the execution of the Contract, and, without prejudice to the immunity enjoyed by the Commission as an international organization from every form of legal process, including enforcement and execution, the Commission shall give the Contractor the opportunity to defend the Commission against the said suit at its discretion and shall not, without the Contractor’s consent in writing, make any admission or consent to any claim of any third party, which might be prejudicial to the Contractor’s position.

17. DEFAULT BY THE CONTRACTOR

(a) In case the Contractor fails to fulfil its obligations and responsibilities under the Contract and provided the Contractor has not remedied such failure(s) within thirty (30) days of having been given written notification by the Commission of the nature of the failure(s), the Commission may, at its entire discretion and without prejudice to its right to withhold payment(s), hold the Contractor in default under the Contract.
(b) When the Contractor is thus in default, the Commission may, by giving written notice to the Contractor, terminate the Contract as a whole or such part or parts thereof in respect of which the Contractor is in default. Upon such notice, the Commission shall have the right to seek completion, at the Contractor’s expense, of that part or those parts of the Contract with respect to which the Contractor is in default.
(c) The Contractor shall, in this case, be solely responsible for any reasonable costs of completion of the Services and/or delivery of Goods, including such costs, which are incurred by the Commission over and above the originally agreed Contract Price.

18. WITHHOLDING OF PAYMENT

(a) The Commission may withhold any payment to the Contractor or, on account of subsequently discovered evidence, nullify the whole or part of any payment approval theretofore given, to such an extent as may be necessary to protect the Commission from loss under the Contract on account of:
   (i) The Contractor’s failure to carry out its obligations or to make adequate progress with the obligations, except for failure arising out of force majeure;
   (ii) The Contractor’s failure to remedy unsatisfactory performance, when such failure has been drawn to his attention by the Commission;
   (iii) The Contractor’s failure to submit on time the reports required.
(b) The withholding by the Commission of any interim payment shall not affect the Contractor’s obligation to continue performance of his obligations under the Contract.
(c) No interest shall accrue on payments eventually withheld by the Commission in application of the stipulations of this paragraph.

19. LIQUIDATED DAMAGES

Subject to Clause 20 below (force majeure), if the Contractor fails to deliver any or all of the Services and/or Goods within the latest time period(s) specified in the Contract, the Commission may, without prejudice to its other remedies under the Contract, deduct from the Contract Price as liquidated damages, a sum equivalent to 0.2 per cent of the portion of the Contract Price for the delayed Services and/or Goods for each working day of
delay until actual performance, up to a maximum of sixty (60) working days. The recovery by the Commission of proven damages shall not be excluded.

20. FORCE MAJEURE

(a) Force majeure as used herein shall mean acts of God, industrial disturbances, acts of the public enemy, civil disturbances, explosions and any other similar cause of equivalent force not caused by nor within the control of either party and which neither party is able to overcome.

(b) As soon as possible after the occurrence of any cause constituting force majeure, the Contractor shall give notice and full particulars in writing to the Commission of such force majeure if the Contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under the Contract.

(c) In this event, the following provisions shall apply:

(i) The obligations and responsibilities of the Contractor under the Contract shall be suspended to the extent of its inability to perform them and for as long as such inability continues;

(ii) The term of the Contract shall be extended for a period equal to the period of suspension taking, however, into account any special conditions which may cause the time for completion of the obligations to be different from the period of suspension;

(iii) If the Contractor is rendered permanently unable, wholly or in part, by reason of force majeure to perform its obligations and meet its responsibilities under the Contract, the Commission shall have the right to terminate the Contract on the same terms and conditions as are provided for in the Termination Clause of the Contract, except that the period of notice may be seven (7) days instead of thirty (30) days;

(iv) For the purpose of the preceding sub-clause, the Commission may consider the Contractor permanently unable to perform in case of any period of suspension in excess of ninety (90) days. Any such period of ninety (90) days or less shall be deemed temporary inability to perform.

21. INSOLVENCY AND BANKRUPTCY

Should the Contractor be insolvent, adjudged bankrupt, or should the Contractor make a general assignment for the benefit of its creditors, or should a receiver be appointed on account of the Contractor’s insolvency, the Commission may, without prejudice to any other right or remedy it may have under the terms of the Contract, terminate the Contract forthwith by giving the Contractor written notice of such termination.

22. INDEMNIFICATION

The Contractor shall indemnify, hold and save harmless and defend at its own expense the Commission, its officers, agents, servants and employees from and against all suits, claims, demands and liability of any nature or kind, including cost and expenses arising out of acts or omissions of the Contractor or its employees or subcontractors in the performance of the Contract. This requirement shall extend, inter alia, to claims or liabilities in the nature of workers’ compensation and to claims or liabilities pertaining to intellectual property rights. The obligations under this clause do not lapse upon termination of the Contract.

23. AMICABLE SETTLEMENT

The parties shall use their best efforts to settle amicably through negotiation any dispute, controversy or claim arising out of, or relating to, the Contract or the breach, termination or invalidity thereof. If the parties cannot reach such amicable settlement through negotiations, the matter shall first be referred to conciliation, by a request by either party for conciliation procedures. The conciliation shall take place in accordance with the United Nations Commission on International Trade Law (UNCITRAL) Conciliation Rules then prevailing, or according to such other procedure as may be agreed between the parties, within a time period of ninety (90) days. There shall be one conciliator. The conciliation shall be in Vienna, Austria, and it shall be conducted in the English language.

24. ARBITRATION

(a) In the event of a failure to reach an amicable settlement in accordance with Clause 23 above (amicable settlement), any dispute arising out of the interpretation or application of the terms of the Contract or any breach thereof shall be settled in accordance with the arbitration rules established by UNCITRAL as at present in force. The number of arbitrators shall be one. The arbitration shall be in Vienna, Austria, and it shall be conducted in the English language.

(b) The arbitrator shall take into account the internationally recognized general principles of commercial transactions. The arbitrator shall have no authority to award punitive damages, nor to award interest in excess of five (5) per cent, and any such interest shall be simple interest only. The parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute.

25. PRIVILEGES AND IMMUNITIES

Nothing in or relating to the Contract shall be deemed a waiver of any of the privileges and immunities of the Commission and its employees.

25(a). TAX EXEMPTION

In principle, the Commission is exempt from all Taxes. Since the arrangement under which such exemption is respected varies from country-to-country, the Contractor shall collaborate with the Commission to achieve Tax exemption at source or to pursue reimbursement of Taxes paid by the Commission, as the case may be.

26. TERMINATION

The Commission may terminate the Contract in whole or in part, and at any time, upon thirty (30) days’ notice of
termination to the Contractor. In the event such termination is not caused by the Contractor’s negligence or fault, the Commission shall be liable to the Contractor for payment in respect of Services already satisfactorily accomplished or Goods delivered and accepted and in conformity with the terms of the Contract, for necessary terminal expenses of the Contractor, and for the cost of such urgent work as is essential and as the Contractor is asked by the Commission to complete. The Contractor shall keep expenses at a minimum and shall not undertake any forward commitment from the date of receipt of the Commission’s notice of termination.

27. GOODS

In the event that the Contract requires the Contractor to supply Goods, the following clauses shall apply in addition to the above.

28. WARRANTY

(a) The Contractor warrants that the Goods, including packaging, conform to the specifications for the Goods ordered under the Contract and are fit for the purpose for which such Goods are ordinarily used and for purposes expressly made known to the Contractor by the Commission, and are new and free from defects in design, workmanship and materials.

(b) This warranty shall remain valid for twenty-four (24) months after the Goods or any part thereof have been delivered and accepted, whichever is later, unless the Contractor has granted a longer period. Should the Commission transfer the title of the Goods to a third party during the warranty period, the right to enjoy the warranty shall be transferable to the new title-holder.

(c) If, during the warranty period mentioned in Sub-clause (b) above, the Goods or any part thereof are found to be defective or not in conformity with the specifications under the Contract, the Contractor shall, upon notification, promptly and at its own expense correct all such defects and non-conformities. If these defects and non-conformities cannot be corrected, the Commission shall have the right, at the Contractor's expense, either to demand replacement of the defective item, or receive appropriate reimbursement, or have the defective item repaired or otherwise procured from a third party.

29. INSPECTIONS AND TESTS

(a) The Commission shall have the right to inspect and/or to test the Goods to confirm their conformity to the technical specifications. The technical specifications shall specify what inspections and tests the Commission requires.

(b) The inspections and tests may be conducted on the premises of the Contractor or its subcontractor(s), at a point of delivery designated by the Commission and/or at the Goods’ final destination. The Contractor shall give all reasonable facilities and assistance-including drawings and production data-to the Commission at no charge to the Commission.

(c) Should any inspected or tested Goods fail to conform to the technical specifications, the Commission reserves the right to reject them and the Contractor shall either replace the rejected Goods or make all alterations necessary to meet specification requirements free of cost to the Commission.

(d) The Commission’s right to inspect, test and, where necessary, reject the Goods after the Goods’ arrival at the point of delivery designated by the Commission or at the Commission’s offices, shall in no way be limited or waived by reason of the Goods’ having previously been inspected, tested and passed by the Commission.

(e) Nothing in this Section on Inspections and Tests shall in any way release the Contractor from any warranty or other obligations under the Contract.

(f) All equipment/material supplied under the Contract may be subject to pre-shipment inspection by a third party to be specified by the Commission. The Contractor is not liable for cost of this inspection.

30. PACKING

The Contractor shall comply or ensure compliance with the following provisions concerning packing:

(a) The Goods shall be packed as is required to prevent their damage or deterioration during transit to their final destination. The packing shall be sufficient to withstand, without limitation, rough handling during transit.

(b) In the case of a cross-border shipment, the Goods shall have appropriate export packing. If necessary, all cases/crates must be wrapped inside with heavy-duty plastic lined paper, should be steel-strapped and must be able to withstand rough handling. Skids for truck handling are imperative if the gross weight is more than 30 kilograms.

(c) The consignment shall be marked and shipped as per address shown on the Purchase Order Form.

(d) Neither partial delivery nor transshipment shall be made unless specifically agreed by the Commission in writing.

(e) Each case/crate/package shall carry a consecutive number, dimensions, volume, and weight (i.e. Case No. X of Y cases, A x B x C cm, E m3, D Kg.) and shall be marked as follows:

EQUIPMENT FOR
THE PREPARATORY COMMISSION FOR THE
COMPREHENSIVE NUCLEAR-TEST-BAN
TREATY ORGANIZATION.

[point of delivery]

PURCHASE NO. ______________________________
GROSS WEIGHT ______________________________
NET WEIGHT ______________________________

(f) Markings shall be done with weatherproof materials. All non-containerized Goods shall be shipped below deck.

(g) Each case/crate/carton shall carry (outside) a copy of the packing list describing the contents of the case/crate/carton. Outside Case No. 1 should be
attached with invoice covering the actual delivery. The accompanying papers must be made out in the English language.

(h) Prior to delivery, a fax (or a letter by courier service) shall be sent to the consignee, if any, advising of the following:
- purchase order/Contract number;
- waybill number or equivalent reference number of the shipment (if any);
- number of boxes/cartons/crates/etc.;
- estimated time of departure (ETD);
- point of departure and name of freight carrier;
- estimated time of arrival (ETA) to final destination.

(i) The following documents shall be enclosed with the shipment in case of shipping by air:
- airway bill;
- proforma or commercial invoice;
- packing list.

(j) The above documents are indispensable and must reach the consignee, if any, on time to permit customs clearance and in order to avoid demurrage charges.

31. DELIVERY AND TRANSPORTATION

(a) Delivery of the Goods shall be made by the Contractor in accordance with the terms specified in the Contract, and the Goods shall remain at the risk of the Contractor until delivery has been completed.

(b) Transport of the Goods to the port of discharge or such other point in the country of destination and/or forwarding to the consignee, if any, (door-to-door) specified in the Contract shall be arranged and paid for by the Contractor and the cost thereof shall be included in the Contract Price.

32. TAKE-OVER/HAND-OVER

Upon successful completion of delivery or of installation and a testing and evaluation period, as specified in the Contract, responsibility for the Goods will be handed over to the consignee or other designated entity.

33. EXPORT LICENCES

If an export licence or any other governmental authorization is required for the Goods, it shall be the obligation of the Contractor to obtain such licence or governmental authorization. In the event of failure to obtain such licence or authorization within reasonable time, the Commission may declare the Contract null and void.

34. SPARE PARTS

In accordance with the Contract, the Contractor may be required to provide any or all of the following materials and notifications pertaining to spare parts manufactured and/or distributed by the Contractor:

(a) Such spare parts as the Commission may choose to purchase from the Contractor, provided that the Contractor is not relieved of any warranty obligations under the Contract;

(b) In the event of termination of production of the spare after delivery of the Goods:
   (i) advance notification to the Commission of the pending termination, in sufficient time to permit the Commission to place a final order;
   (ii) following such termination, furnishing at no cost to the Commission, the blueprints, drawings and specifications of the spare parts, if and when requested.

35. UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS

Questions concerning matters arising under the Contract, but not settled in it, shall be settled in conformity with the United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980), which shall be applicable to the Contract. The applicable language version of the Convention shall be the version in which the Contract is written.

1 April 2016