

Assistance Agreement

The Norwegian Government's Standard Agreement
for Consultancy Assistance

Consultancy services for nuclear safety,
including spent fuel management,
radiation protection and risk
assessment

Case number 26/02367

Agreement relating to Consultancy Assistance

An agreement concerning

Consultancy services for nuclear safety, including spent fuel management, radiation protection and risk assessment.

has been entered into between:

Direktoratet for strålevern og atomsikkerhet (DSA)

(hereinafter referred to as the Customer)

and

[Enter here]

(hereinafter referred to as the Consultant)

(individually referred to as a Party and jointly as the Parties)

Place and date:

[Please enter the place and date]

[Customer name]

[Consultant name]

[Customer business registration
number]

[Consultant business registration
number]

The Customer's signature

The Consultant's signature

This Agreement shall be signed in two copies, one for each Party.

Enquiries

All enquiries relating to this Agreement must be directed to the individual or role listed as the authorised representative in Appendix 4.

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1. GENERAL PROVISIONS

1.1 SCOPE OF THE AGREEMENT

This Agreement shall apply to the provision of professional assistance under the management of the Customer, hereinafter referred to as “the Assistance”, as specified in Appendix 1.

The Customer has specified its needs and requirements for the Assistance in Appendix 1 (The Customer’s specification of the Assistance).

The Consultant has specified its assistance in Appendix 2 (The Consultant’s specification of the Assistance).

The Consultant shall also participate in other activities requested by the Customer within the framework of the Agreement.

The scope and execution of the Assistance have been described in further detail in the appendices below, which form part of the Agreement.

“Agreement” refers to this general agreement text with appendices.

1.2 APPENDICES TO THE AGREEMENT

All columns must be checked (Yes or No)	Yes	No
Appendix 1: The Customer’s specification of assistance <i>To be completed by the Customer.</i>	X	
Appendix 2: The Consultant’s specification of assistance <i>To be completed by the Consultant. CVs and other specifications of the expertise, etc. held by the resources providing the Assistance requested by the Customer in Appendix 1 shall be included here.</i>	X	
Appendix 3: Project and progress schedule <i>To be completed by the Consultant based on the overall instructions set down by the Customer.</i>	X	
Appendix 4: Administrative provisions <i>Administrative provisions and other information of relevance to the Parties’ relationship. To be completed by the Consultant based on the overall instructions set down by the Customer in the Appendix.</i>	X	

Appendix 5: Price and price provisions <i>Overview of all price elements linked to the implementation of this Agreement. To be completed by the Consultant based on the overall instructions set down by the Customer in the Appendix.</i>	X	
Appendix 6: Amendments to the general agreement text	X	
Appendix 7: Amendments to the Agreement after the Agreement has been entered into	X	
Other appendices:		

1.3 INTERPRETATION – RANKING

Amendments to the general agreement text must be collated in Appendix 6, unless the general agreement text refers such amendments to a different appendix. The following interpretation principles shall be used:

1. The general agreement text takes precedence over the appendices
2. Appendix 1 takes precedence over the other appendices
3. To the extent that it is clearly and unambiguously stated which clause or clauses have been amended, replaced or added to, the following shall apply:
 - a) Appendix 6 takes precedence over the general agreement text
 - b) If the general agreement text refers such amendments to a different appendix than Appendix 6, such amendments shall take precedence over the general agreement text
 - c) Appendix 7 takes precedence over the other appendices.

2. IMPLEMENTATION OF THE AGREEMENT

2.1 THE PARTIES' REPRESENTATIVES

Upon entering into the Agreement, each Party shall appoint a representative that is authorised to act on behalf of the Party in matters relating to the Agreement. The authorised representatives of the Parties, as well as the procedures and notification deadlines for any replacement of such representatives, shall be further specified in Appendix 4.

2.2 MEETINGS

If deemed necessary by a Party, the Party may, subject to a notice period of at least 3 (three) working days, convene a meeting with the other Party to discuss the contractual relationship and the way in which the Agreement is being executed.

Other deadlines and procedures for meetings can be agreed in Appendix 4.

2.3 RISK AND RESPONSIBILITY FOR COMMUNICATION AND DOCUMENTATION

Both Parties shall ensure proper communication, storage and security back-ups of documents and other materials of importance to the Assistance, regardless of format, including e-mail and other electronically stored materials.

The Consultant shall bear the risk and responsibility for all material, regardless of format, that is damaged or destroyed while under the control of the Consultant.

2.4 WRITTEN FORM REQUIREMENTS

All notifications, claims or other messages linked to this Agreement shall be issued in writing to the postal address or electronic address specified in Appendix 4 for the enquiry type in question.

3. CHANGES AFTER CONCLUSION OF THE AGREEMENT

If, after conclusion of the Agreement, the Consultant finds that the content or scope of the Assistance is changed, the Customer shall be notified in writing without undue delay. The Assistance shall otherwise be implemented at the agreed time and price.

Changes or additions to the Agreement shall be agreed in writing. In Appendix 7, the Consultant must keep a running directory of such changes. The Consultant shall provide the Customer with an updated copy without undue delay.

4. DURATION, CANCELLATION AND TEMPORARY SUSPENSION OF THE ASSISTANCE

4.1 DURATION

Work must be started and concluded in accordance with the progress schedule set out in Appendix 3.

4.2 CANCELLATION

The Assistance may be cancelled by the Customer subject to a written notice period of 30 (thirty) days.

In the event of cancellation prior to the conclusion of the Assistance, the Customer shall pay:

1. The amount owed to the Consultant for completed work.

2. The Consultant's documented costs incurred in connection with the redistribution of personnel and
3. Other direct costs incurred by the Consultant as a result of the cancellation.

Other cancellation fees may be agreed in Appendix 5.

4.3 TEMPORARY SUSPENSION OF THE ASSISTANCE

Subject to a written notice period of no less than 5 (five) days, the Customer may demand the temporary suspension of the Assistance. The notification shall specify when the Assistance must be suspended and when it is scheduled to resume.

In the event of a temporary suspension, the Customer shall provide compensation for:

1. The Consultant's documented costs incurred in connection with the redistribution of personnel and
2. Other direct costs incurred by the Consultant as a result of the suspension.

If the Assistance has been suspended for a period of more than 120 (one hundred and twenty) consecutive days, the Consultant may terminate the Agreement by issuing written notice to the Customer. If, within 14 (fourteen) days of receiving such notice, the Customer does not issue written notice for the Assistance to resume, the cancellation provisions set out in Section 4.2 shall apply.

5. THE PARTIES' OBLIGATIONS

5.1 OVERALL RESPONSIBILITIES

5.1.1 The Consultant's responsibilities and expertise

The Consultant shall provide the Assistance in accordance with this Agreement, in a sound professional manner and in accordance with recognised methods and standards.

The Consultant shall use any standards and/or methods and similar that the Customer has specified in Appendix 1.

The Customer shall be given the opportunity to check and verify the Consultant's work and that the specified standards/methods are used.

The Consultant shall cooperate with integrity and safeguard the interests of the Customer.

Any enquiries from the Customer shall be answered without undue delay.

The Consultant shall, without undue delay, report any matters that the Consultant understands or should understand may have an impact on the execution of the Assistance, including any anticipated delays.

5.1.2 The Customer's responsibility for facilitation and contribution

The Customer shall contribute loyally to the execution of the Assistance.

Any enquiries from the Consultant shall be answered without undue delay.

The Customer shall, without undue delay, report any matters that the Customer understands or should understand may have an impact on the implementation of the Assistance, including any anticipated delays.

5.2 KEY PERSONNEL

The Consultant's key personnel in connection with the implementation of the Assistance shall be specified in Appendix 4.

Changes to the Consultant's key personnel shall be approved by the Customer. Approval shall not be denied without justified grounds.

In the event of a change of personnel due to circumstances for which the Consultant is responsible, the Consultant shall bear the costs associated with the transfer of expertise to the new personnel.

5.3 DUTY OF CONFIDENTIALITY

Information that the Parties become aware of in connection with the Agreement and the execution of the Agreement shall be treated confidentially and shall not be disclosed to third parties without the consent of the other Party unless there are no legitimate interests that dictate that the information should be kept secret. Third parties refers to anyone that does not have a substantive need for access to the information in order to perform their duties under the Agreement.

If the Customer is a public sector enterprise, the Customer's duty of confidentiality under this provision shall be no more extensive than what arises from the Act of 10 February 1967 on public administration (Public Administration Act) or equivalent sector-specific regulations.

The duty of confidentiality under this provision shall not interfere with statutory rights of access to information.

The duty of confidentiality shall apply to the Parties' employees, subcontractors and other parties contributing to or acting on behalf of the Parties in connection with the execution of the Agreement.

The duty of confidentiality shall lapse five (5) years after the termination of the Agreement, unless otherwise agreed in Appendix 4 or stipulated by laws or regulations.

5.4 PAY AND WORKING CONDITIONS

5.4.1 General

The following shall apply to agreements subject to the regulations of 8 February 2008 no. 112 on pay and working conditions in public contracts:

1. In areas covered by the regulations on general collective agreements, the Consultant shall ensure that its own employees and employees of any subcontractors that contribute directly to the fulfilment of the Consultant's obligations under this Agreement do not have worse pay and working conditions than what follows from the regulations under which the collective agreement has been applied.
2. In areas not covered by the regulations on general application of collective agreements, the Consultant shall ensure that the same employees do not have worse pay and working conditions than what follows from the applicable nationwide collective agreement for the industry in question.

This applies to work performed in Norway.

All agreements entered into by the Consultant that involve the execution of work that contributes directly to the fulfilment of the Consultant's obligations under this Agreement shall include corresponding conditions.

5.4.2 Documentation

Upon written request from the Customer, the Consultant shall submit documentation of the pay and working conditions that are applied. The Customer and Consultant may separately require that information be presented to an independent third party that the Consultant has commissioned to examine whether the requirements set down in this provision have been met. The Consultant may require the third party to have also signed a declaration stating that the information shall not be used for purposes other than ensuring the fulfilment of the Consultant's obligations under this provision. This documentation requirement shall also apply to subcontractors.

Upon written request and subject to a reasonable deadline, the Consultant shall be required to document the pay and working conditions of its own employees, as well as any subcontractors' employees (including contractors) who directly contribute to the fulfilment of the contract.

In the event of a breach of the documentation duty, the Customer shall be entitled to impose a daily penalty that shall not be less than NOK 1,500 per day. Higher daily penalties can be agreed in Appendix 4.

5.4.3 Non-compliance

In the event of non-compliance with the requirements relating to pay and working conditions, the Consultant shall remedy the matter. In the event of non-compliance on the part of a subcontractor (including staffing companies), the duty to remedy shall be limited to any requests submitted in writing within three months of the salary due date for claims arising both under general collective agreements and nationwide collective agreements. The conditions and limitations arising from Section 13 of the act relating to general application of wage agreements etc. of 4 June 1993 shall apply in both cases.

If the Consultant fails to comply with this requirement, the Customer shall be entitled to withhold parts of the contract sum, corresponding to 2 (two) times the Consultant's saving. The right to withhold shall lapse as soon as remediation pursuant to the previous paragraph has been documented.

Compliance with the Consultant's requirements as mentioned above shall be documented in Appendix 4. If documentation has been submitted to an independent third party, a statement from the third party may be accepted as documentation of compliance between the collective agreement in question and the actual pay and working conditions in order to demonstrate compliance with the Consultant and any subcontractors' obligations.

Further details concerning the implementation of this Section 5.4 may be agreed in Appendix 4.

6. PAYMENT AND TERMS OF PAYMENT

6.1 PAYMENT

The payment and terms of payment shall be stipulated in Appendix 5. Unless otherwise specified in Appendix 5, all prices shall be specified exclusive of value-added tax. All prices shall be specified in Norwegian kroner.

Expenses, including travel and per diem expenses, shall be covered only to the extent agreed. Any such agreed travel and per diem expenses shall be specified separately and shall be covered in accordance with the government's applicable rates, unless otherwise agreed. Travel time shall be covered only if agreed in Appendix 5.

6.2 INVOICING

Invoicing shall take place monthly in arrears, unless otherwise agreed in Appendix 5. The invoiced amount shall apply to the time spent until the invoice date, as well as coverage of any expenses incurred during the same period.

Payment shall take place within 30 (thirty) days of receipt of invoice. The Consultant's invoices shall be itemised and documented so that they can be verified by the

Customer. All invoices for hours elapsed shall be accompanied by a detailed specification of the hours accrued. Expenses and other costs shall be specified separately.

If the Customer is a public sector enterprise, the Consultant shall be required to use electronic invoicing in an approved standard format in accordance with the regulations dated 2 April 2019 concerning electronic invoicing in public procurements.

If the Consultant is unable to fulfil the requirements concerning the use of electronic invoices, the Customer may withhold payment until an electronic invoice in an approved standard format is submitted. The Customer shall notify the Supplier of this without undue delay. If such a notification has been issued, the payment deadline shall run from the date on which the electronic invoice is submitted in an approved standard format.

If the information contained in the invoice or invoice specification includes information that is subject to statutory confidentiality and there will be a risk of disclosure of such information, the electronic invoice requirements may be waived, unless there are satisfactory technical security solutions that can ensure that confidentiality is maintained.

The Consultant shall bear any costs associated with electronic invoicing itself.

The payment schedule and other terms of payment shall be specified in Appendix 5.

6.3 INTEREST ON OVERDUE PAYMENTS

If the Customer fails to make payment at the agreed time, the Consultant shall be entitled to interest on the amount overdue for payment pursuant to the act of 17 December 1976, no. 100 relating to interest on overdue payments, etc.

6.4 PAYMENT DEFAULT

If overdue payment plus interest is not made within 30 (thirty) calendar days of the due date, the Consultant may issue a written notice to the Customer that the Agreement will be terminated if settlement has not been made within 60 (sixty) days of the notice having been received.

The Agreement cannot be terminated if the Customer settles the overdue payment plus interest by the expiration of the deadline.

6.5 PRICE CHANGES

Prices are subject to change to the extent that the rules relating to government taxes change with effect for the Consultant's payment or costs. The Consultant must submit and document such requirements in writing.

The price may be subject to change at the end of each year but shall be limited to an amount that does not equate to more than the increase in Statistics Norway's consumer price index (the total index), initially based on the index for the month in which the Agreement was entered into, unless another index has been agreed in Appendix 5.

Any other provisions relating to price changes shall be specified in Appendix 5.

7. COPYRIGHT AND RIGHT OF OWNERSHIP

Right of ownership, copyright and other relevant material and intellectual property rights relating to the results of the Assistance shall fall to the Customer when payment has been made, unless otherwise agreed in Appendix 6 and subject to any limitations arising from other agreements or mandatory law.

Such rights also include the right to modify and transfer, cf. Section 68 of the act of 15 June 2018 no. 40 on copyright to intellectual property, etc. (Copyright Act).

The Consultant shall retain the rights to its own tools and methodological data. Both Parties may also exploit general knowledge (know-how) that is not confidential and that the Parties have acquired in connection with the Assistance.

The Customer (and its rightsholders) retains its rights to data made available to the Consultant and acquires the rights to data that is collected, processed, edited, generated, arises, or is otherwise managed in accordance with this Agreement. The same shall apply to the results of the processing of such data. The Customer shall at all times have access to its data that is made available to the Consultant, and to the results of the Consultant's processing of such data. Under no circumstances shall the Consultant be entitled to exercise the right to withhold the Customer's data. If the Customer is not in possession of all such data upon termination of the Agreement, the Consultant shall make the data available to the Customer, or to a party designated by the Customer, in a commonly used and machine-readable format. The Customer may specify other terms and conditions in Appendix 1.

8. BREACH OF CONTRACT

8.1 WHAT IS CONSIDERED BREACH OF CONTRACT

A breach of contract shall be deemed to exist if either Party fails to fulfil its obligations under the Agreement and this is not due to factors that the other Party is responsible for or force majeure.

The Customer shall lodge any complaints without undue delay after the breach of contract has been or should have been discovered.

8.2 NOTIFICATION REQUIREMENT

In the event that one of the Parties is unable to fulfil its obligations as agreed, the Party shall notify the other Party in writing as soon as possible. The notification shall specify the cause of the issue and, to the extent possible, specify when the Assistance can be delivered. The same shall apply if further delays must be expected after the initial notice has been issued.

An estimate of the number of hours and the rules for reporting hours being exceeded shall be specified in Appendix 5.

8.3 SANCTIONS IN THE EVENT OF BREACH OF CONTRACT

8.3.1 Price reductions

The Customer shall be entitled to request a proportionate reduction in price if, despite repeated attempts, the Consultant is unable to remedy a breach.

8.3.2 Right to withhold

In the event of breach of contract on the part of the Consultant, the Customer may withhold payment, but not obviously more than what is necessary to secure the Customer's claims resulting from the breach of contract.

The Consultant may not withhold the Assistance as a result of breach on the part of the Customer, unless such breach is material in nature.

8.3.3 Termination and termination settlement

In the event of material breach of contract, the other Party may, after providing the defaulting Party with reasonable written notice to rectify the matter, terminate the Agreement in full or in part with immediate effect. Termination may not take place if the defaulting Party rectifies the breach before the expiration of the deadline.

If the performance up to the termination date is of limited or no utility to the Customer, the Customer may, in connection with termination, request repayment of any payment made for hours elapsed and any expenses paid to the Consultant under the agreement plus interest corresponding to NIBOR plus 1 (one) percentage point from the date on which payment was made.

Otherwise and to the extent the Customer is able to utilise parts of the Assistance as intended, the Customer shall pay for the parts of the Assistance performed prior to the termination date, less any price reduction according to Section 8.3.1.

8.3.4 Compensation

The Parties may claim compensation for any direct loss, including additional costs incurred due to cover purchases, losses incurred due to additional work and other direct costs incurred in connection with delays, defects or other breach of contract

arising pursuant to Section 8.1, unless the defaulting Party accepts that the breach or cause of the breach did not arise due to breach on the part of the other Party.

8.3.5 Limitation of compensation

The Parties cannot claim compensation for indirect losses. Indirect losses include but are not limited to lost earnings of any kind, lost savings, loss of data and claims from third parties, with the exception of any imposed liability for compensation for legal defects.

Total compensation during the term of the Agreement shall be limited to an amount corresponding to the contract sum, excluding value-added tax, or an agreed estimate for the Assistance.

Nevertheless, these limitations shall not apply if the defaulting Party or anyone for which it is responsible has acted with gross negligence or wilful intent.

9. OTHER PROVISIONS

9.1 INSURANCE

9.1.1 The Customer's insurance

If the Customer is a public sector enterprise, the Customer shall be a self-insurer. The Customer shall take out the necessary insurance to cover any claims from the Consultant that arise in relation to the Customer's risk or liability under this Agreement within the framework of general terms and conditions of insurance if the Customer is not a self-insurer.

9.1.2 The Consultant's insurance

The Consultant shall take out the necessary insurance to cover any claims from the Customer that arise in relation to the Consultant's risk or liability under this Agreement within the framework of general terms and conditions of insurance. This obligation shall be deemed to have been satisfied if the Consultant takes out liability and risk insurance on terms and conditions that are considered common within Norwegian insurance activities.

9.2 TRANSFER OF RIGHTS AND OBLIGATIONS

9.2.1 The Customer's transfer

If the Customer is a public sector enterprise, the Customer may transfer its rights and obligations under this Agreement to another public sector enterprise or legal entity that is wholly owned by a public sector or local authority enterprise.

If the Customer is not a public sector enterprise, the Customer may transfer its rights and obligations under this Agreement to a subsidiary or other company within the

same group, but the Customer shall be jointly and severally liable for the payment obligation unless the Consultant has consented to the transfer. The Consultant's consent shall be required for transfer to companies other than those mentioned in the first and second paragraph. Consent shall not be refused without justified grounds.

The enterprise that assumes the rights and obligations under such a transfer shall be entitled to similar terms, provided that the rights and obligations under the Agreement are transferred collectively.

9.2.2 The Consultant's transfer

The Consultant may only transfer its rights and obligations under the Agreement subject to the written consent of the Customer. This shall also apply if the Consultant is divided into multiple undertakings or if the transfer is made to a subsidiary or other undertaking within the same group, but not if the Consultant merges with another company. Consent shall not be refused without justified grounds.

The Consultant's right to transfer in the section above shall apply only if the new consultant meets the original qualification requirements, there are no other material changes to the contract and transfer does not take place for the purpose of circumventing the regulations relating to public procurements.

The right to remuneration under this Agreement may be freely transferred. Such transfer shall not relieve the Party in question of its obligations and liability.

9.3 BANKRUPTCY, COMPOSITION OF DEBT, ETC.

In the event that debt negotiations or composition of debt or bankruptcy proceedings are opened in connection with the Consultant's activities or if other forms of creditor control apply, the Customer shall be entitled to terminate the Agreement with immediate effect, unless otherwise provided for by mandatory law.

9.4 FORCE MAJEURE

In the event of an extraordinary situation that falls outside the Parties' control and that makes it impossible or disproportionately difficult to fulfil obligations under this Agreement and that must be considered force majeure under Norwegian law, the counterparty shall be notified of the matter as soon as possible. The affected Party's obligations shall be suspended for as long as the extraordinary situation persists. The other Party's return service shall be suspended for the same period of time.

In force majeure situations, the counterparty may only terminate the Agreement subject to the consent of the affected Party or if the situation persists or is expected to persist for more than 90 (ninety) calendar days, calculated from the time at which the situation arose and then only subject to a notice period of 15 (fifteen) calendar days.

In connection with force majeure situations, the Parties shall have a mutual duty to provide information to each other regarding all matters that must be assumed to be of importance to the other Party. Such information shall be provided as soon as possible.

10. DISPUTES

10.1 NEGOTIATIONS

In the event of any disputes between the Parties concerning the interpretation or legal effects of this Agreement, attempts should initially be made to resolve such disputes through negotiations.

10.2 MEDIATION

In the event that a dispute arising in connection with this Agreement cannot be resolved through negotiations, the Parties may attempt to resolve the dispute through mediation.

The further procedure for mediation shall be determined by the mediator in consultation with the Parties.

10.3 CHOICE OF LAW AND LEGAL VENUE

The Parties' rights and obligations under this Agreement shall be determined in full by Norwegian law.

In the event that a dispute cannot be resolved through negotiations or mediation, either Party may request that the dispute be settled with final effect in the Norwegian courts.

The legal venue shall correspond to the Customer's business address.

The Parties may alternatively agree that the dispute will be settled with final effect through arbitration.
