



Nagra

**National Cooperative for the
Disposal of Radioactive Waste**

Hardstrasse 73
5430 Wettingen

Document D Draft Contract

Project:	Deep boreholes (TBO)
Work/ Construction project:	Multi-packer long-term monitoring systems for deep boreholes
Type of performance:	Supply, installation and documentation of multi-packer long-term monitoring systems in deep boreholes

Draft Contract for Hydraulic Packer Tests

between

Nagra

National Cooperative for the Disposal of Radioactive Waste
Hardstrasse 73
Postfach 280
5430 Wettingen
Switzerland

(hereafter the "**Operator**")

and

Company

Street
City
Country

(hereafter the "**Contractor**")

The Operator and the Contractor together can be referred to as the «Parties» and separately as the «Party».

1. Object of the contract

For the deep borehole project (TBO project), the Operator contracts the supply, installation and documentation of multi-packer long-term monitoring systems in three deep boreholes at different drill sites.

See document B: requirements specifications and tender regulations, sections 2 and 3.

2. Parts of the contract

The parts of the contract have the following ranking order:

- a) This contract document
- b) Document B: Requirements specifications and bid regulations
- c) The bid of the Contractor dated XX.XX.2020 and, if applicable, the minutes of the bid clarification meeting, dated XX.XX.2020.
- d) The general terms and conditions of the Operator (June 2017)
- e) The norm SIA 126 (2014) "Preisänderung infolge Teuerung bei Planerleistungen"
- f) The norm SIA 118 (2013) "General terms and conditions for construction works"

3. Services of the Contractor

The services that must be performed by the Contractor and the required equipment and documentation are described in document B (requirements specifications and tender regulations).

4. Remuneration

The prices are fixed for the entire duration of the contract and cannot be changed.

For price changes see document B: requirements specifications and tender regulations, section 4.6.

4.1 Cost items of remuneration

See document B: requirements specifications and bid regulations, section 4.2.

4.2 Additional services

See document B: requirements specifications and bid regulations, section 4.3.

4.3 Remuneration of additional costs

4.3.1 General additional costs

See document B: requirements specifications and bid regulations, section 4.5.1.

4.3.2 Costs for board and lodging

See document B: requirements specifications and bid regulations, section 4.5.2.

4.3.3 Travel costs

See document B: requirements specifications and bid regulations, section 4.5.3.

4.3.4 Documentation costs

See document B: requirements specifications and bid regulations, section 4.5.4.

4.4 Controlling, invoicing

See document B: requirements specifications and bid regulations, section 4.7.

The contract number XXX must be stated on the invoice.

The invoicing address is:

Nagra
National Cooperative for the Disposal of Radioactive Waste
Hardstrasse 73
Postfach 280
CH-5430 Wettingen
Switzerland

4.5 Warranty and bank guarantee

See document B: requirements specifications and bid regulations, sections 2.11 and 4.4.

5. Duration of the contract

The present contract becomes effective after signature by both Parties and is valid for the supply, installation and documentation of multi-packer long-term monitoring systems in three TBO boreholes at different drill sites between 2020 - 2022.

After the duration of this contract, the unilateral option exists for the Operator to extend this contract on condition that the same pricing is applied and that the same personnel and same equipment are available for the supply, installation and documentation of multi-packer long-term monitoring systems in additional TBO boreholes. The option will be activated separately for each additional TBO borehole with 4 months advance notice before the start of installation. The Contractor has no entitlement to a contract extension.

6. Premature termination of the contract

Each Party has the right to terminate this contract by means of a letter at any time, if

- the other Party violates the essential terms of this contract;
- an administrative receiver or trustee is appointed for all or parts of the shares of the other Party;
- if the Party goes into liquidation (except for given solvency for re-organisation, re-structuring or amalgamation)
- the Party goes bankrupt, enters into a contract with its creditors, or similar happens to the other Party.

The Operator reserves the right to terminate the contract at any time, with a period of notice of three months.

The work performed up to termination of the contract will be compensated. If the termination occurs on untimeliness, the resigning Party must compensate proven damage, but by no means lost profit.

No termination on untimeliness occurs if one Party gives justified reason to the other Party for contract termination. This is the case if the other Party commits a substantial violation of the contract terms, for example

- exchange of key personnel of the Contractor without approval of the Operator;
- non-fulfillment after extended timelines or respites (see section 7.6).

After termination of the contract, the Contractor has to return all written documents (reports, files) received from the Operator in original form.

7. General and specific contract conditions

7.1 Duty of due diligence and loyalty

The Contractor must preserve the interests of the Operator to the best of his knowledge and ability. The Contractor must perform the agreed services competently, professionally and accurately.

7.2 Duty of information

The Contractor informs the Operator

- regularly about the progress and the results of the contracted work;
- immediately in written form about circumstances that could hinder the correct fulfilment of the contracted work;

- immediately in written form about recognisable deviations from the agreed amount of work, possible exceedance of the cost ceiling, and all technical developments that could change the technical and financial conditions related to the agreed services.

The Operator can request the Contractor at any time to justify the project management and to release all documents (interim reports, studies, calculations, drawings) that were created within the framework of this contract.

7.3 Personnel assignment

The work items and roles must be performed by the personnel listed in the bid.

The Contractor must propose an equivalent replacement before an unavoidable change of personnel. The replacement requires the approval of the Operator. Otherwise, the Operator is permitted to terminate the contract without notice and without any cost implications.

7.4 Insurance of the Contractor

See document B: requirements specifications and bid regulations, section 1.15.

7.5 Guarantee

The Contractor guarantees that no legal claims, copyrights or rights of intellectual property of third parties are violated with the performance of the contracted services, including all software, drawings, calculations and other documents. If a third party claims infringement, the Contractor guarantees to take over the dispute and hold the Operator harmless.

The Contractor guarantees, in addition to the diligent and accurate performance of the contracted services, that the services are conform with the rules and conditions of this contract and are conform with the technical knowledge and accuracy typically applied for such work under similar conditions.

7.6 Regulations in Switzerland

The Contractor shall abide by all applicable regulations, laws, rules, etc., whether federal or cantonal, applicable in Switzerland and in the area of operations, especially, but not limited to, health, safety and environment regulations and regulations regarding working time.

The Contractor with registered headquarters outside Switzerland shall fully comply with and cover all liabilities when securing permits for the temporary import of goods into Switzerland as well as when obtaining the necessary work permits for the Contractor's personnel.

7.7 Non-fulfilment

Non-fulfilment by the Contractor exists

- if the Contractor does not meet the agreed, reminded and extended timelines or respites;
- in all cases of the impossibility to perform the work that are caused by or accounted for by the Contractor.

If the Contractor does not fulfill by the end of the extended timeline or respite, a substantial violation of the terms and conditions of this contract exists. The Operator is then authorised to terminate the contract immediately. Services performed up to contract termination will be compensated.

7.8 General terms and conditions

The terms and conditions of the Contractor are not accepted. The general terms and conditions of the Operator apply.

7.9 Right to issue instructions

Within the framework of this contract, the Operator has the right to issue instructions to the Contractor. If the Operator insists on the instruction notwithstanding a written warning by the Contractor, the Contractor is not responsible for the consequences of the instruction.

7.10 Copyright and rights to intellectual property

The copyright and all other rights to intellectual property for reports, specifications, calculations, drawings and other documents that the Contractor creates within the framework of this contract are passed over completely to the Operator after payment.

7.11 Delegation and subcontracting

Without prior written approval, no Party has the right to transfer a right or a duty to the other Party. The Contractor is not permitted to contract a subcontractor for services under this contract without prior written approval of the Operator.

7.12 Law & Jurisdiction

This contract shall be governed by and construed in accordance with Swiss law. This contract shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. Any disputes relating to this Agreement shall be subject to the exclusive jurisdiction of the courts of Switzerland. Place of jurisdiction is Wettingen.

7.13 Dispute resolution

Any dispute arising out of or in connection with this contract or the interpretation or breach thereof ("Dispute") shall be referred by either party to the parties' respective managing directors or senior representatives as designated by each party for such purpose who shall attempt in good faith to resolve the Dispute within a period of not more than twenty (20) days from the date of the reference.

7.14 Severability clause

If one or more conditions of this contract are, or will be, in any respect contrary to the law, invalid or not feasible according to a decisive legal system, the legality, validity and feasibility of the remaining conditions of this contract remain unaffected. The parties have the obligation to substitute an illegal, invalid or non-feasible condition of this contract with a new legal, valid and feasible condition that comes as close as possible to the original formulation.

A written abandonment of a Party of the enforcement of a violation of this contract does not constitute an abandonment of the enforcement of a subsequent violation of the selfsame or another condition of the contract.

For the Operator:

Wettingen,

**Nagra, National Cooperative for the
Disposal of Radioactive Waste**

For the Contractor:

Place,

Company

.....
Dr. Thomas Ernst

CEO

.....
Name

Title

.....
Flavio Casanova

Head of TBO campaign

.....
Name

Title

Annexes:

- 1: Document B: Requirements specifications and bid regulations
2. Extract of the bid of the Contractor: price list dated XX.XX.2020.
- 3: Declaration of data confidentiality
- 4: Proof of insurance of the Contractor
- 5: The general terms and conditions of the Operator (June 2017)