

## **1 DEFINITIONS AND INTERPRETATION**

1.1 In these conditions, the following terms shall have the following meanings:

Buyer and Seller means respectively the parties identified as Buyer/Company and Seller/Contractor in the separate contract/purchase document.

Conditions means these general conditions of purchase.

Contract means the separate contract/purchase document, including any appendices attached thereto, together with these Conditions.

Deliverables means all products, goods and services (including documents, drawings and computer programs) to be delivered by Seller as set out in and pursuant to the Contract.

GST means a tax in the nature of a supply or goods and services tax levied or imposed by the Commonwealth of Australia.

GST Date means the date on which a liability for GST on any supply under this Contract first arises

Recipient means, in respect of a particular supply made under this Contract, the party obliged to pay for that supply.

Supplier means, in respect of a particular supply made under this Contract, the party entitled to payment for that supply.

Work means the work to be performed by Seller for the production, performance and delivery of the Deliverables.

Worker has the same meaning as defined in section 7 of the WHS Act.

WHS Act means the *Work Health and Safety Act 2011* (NSW).

WHS Regulation means the *Work Health and Safety Regulation 2011* (NSW).

1.2 If there is any conflict between the provisions of the Contract, priority shall be given in the following order: the separate contract/purchase document; these Conditions; the appendices to the contract/purchase document in the order in which they appear.

## **2 GENERAL OBLIGATIONS OF SELLER**

2.1 Seller shall perform the Work and deliver the Deliverables in accordance with all the terms in the Contract.

2.2 Seller guarantees that it has sufficient resources and competence to perform the Work, that it shall perform the Work with the degree of care and skill normally exercised by professional firms performing work of a similar nature and that the Deliverables shall, when delivered:

- meet their specifications as set out in the Contract and for a period of, unless otherwise agreed in the Contract, two years after their delivery, be free from defects caused by faulty materials, workmanship or design
- be of high quality and fit for their intended purpose
- be in compliance with applicable laws and regulations

2.3 Seller shall obtain and maintain all permits, authorities and approvals necessary for Seller to perform the Work. If requested by Buyer, Seller shall provide evidence that it has complied with this obligation.

2.4 Seller shall not subcontract the Work or parts thereof without Buyer's written consent. Such consent does not relieve Seller from any of its liabilities and obligations under the Contract.

2.5 Seller shall have adequate systems and processes suited to the Deliverables for quality assurance and the protection of health, safety and environment. Buyer is, at any time, entitled to carry out inspections and audits at Seller's or any subcontractors' premises to confirm compliance. Seller shall assist Buyer with such inspections and audits. If Buyer deems such systems inadequate, Seller shall implement any reasonable changes requested by Buyer within a reasonable time and at Seller's expense.

2.6 If the parties have agreed upon key personnel for the Work, such personnel shall not be replaced without Buyer's prior written consent which shall not be unreasonably withheld.

2.7 Seller shall, at its expense, immediately replace personnel who in Buyer's reasonable opinion conduct themselves in an improper manner or are unsuitable to perform the Work.

2.8 Seller shall ensure that all Work is carried out in compliance with all applicable laws (including any rules relating to safety and working conditions at the relevant location).

2.9 Seller undertakes that in the performance of the Work it shall respect the protection of human rights and internationally accepted labour standards, it shall not use child or forced labour or discriminate in respect of employment, it shall avoid conflicts of interest and respect the environment. Seller undertakes that it will not make, offer or authorise any undue payment, gift, promise or other undue advantage, in relation to the Work, whether directly or indirectly, to or for the benefit of any public official, third party or personnel of Buyer in order to obtain or retain business.

2.10 The Seller must comply with Schedule "A" and ensure that any third parties appointed by the Seller to perform the Work and who are approved by the Buyer under clause 2.4 above comply with schedule "A".

## **3 SELLER CODE OF CONDUCT**

3.1 Seller shall, throughout the term of the Contract, ensure that it complies with the principles set out in Buyer's Supplier Code of Conduct. Furthermore, Seller shall actively promote the principles set out in Buyer's Supplier Code of Conduct with its own Sellers/contractors and sub-Sellers/subcontractors of any tier that have a material contribution to the supply of goods and services to Buyer under the Contract (Seller and such Sellers/contractors/sub-Sellers/subcontractors being together, the "Supply Chain").

3.2 Buyer may, at any time during the term of the Contract, take any reasonable actions to monitor and audit Seller's compliance with its obligations under Article 3.1, including, without limitation,

- (i) by requiring Seller to provide details of the Supply Chain's compliance systems; and
- (ii) (ii) by carrying out, with reasonable prior notice, inspections of the Supply Chain's sites. Seller shall provide all reasonable assistance to Buyer.

3.3 If at any time, Buyer identifies, or reasonably suspects, non-compliance with or breach of the principles of Buyer's Supplier Code of Conduct ("Non-Compliance") by any member of the Supply Chain, Buyer shall notify Seller of such Non-Compliance. Seller shall provide all reasonable assistance to enable Buyer to investigate the Non-Compliance.

3.4 If a Non-Compliance in the Supply Chain is material (with regard to

- (i) the nature of the principle concerned,
- (ii) any potential effect on Buyer and its affiliates' reputations, or
- (iii) the performance of the Contract) and/or is not able to be corrected, Buyer may terminate the Contract by written notice.

3.5 If a Non-Compliance in the Supply Chain is immaterial and is able to be corrected, Seller shall be given a reasonable period within which the Non-Compliance shall be corrected. Seller shall, without undue delay, submit a correction plan to Buyer. If upon the expiry of the correction period, the Non-Compliance has not been corrected, Buyer may terminate the Contract by written notice.

3.6 The rights and remedies in this Article 3 are not exclusive of and are without prejudice to any rights and remedies provided elsewhere in the Contract and by general law.

## **4 INSTALLATION AND TESTING**

4.1 The provisions of this Article 4 only apply if it has been agreed that the Deliverables shall include installation work and/or testing.

- 4.2 Buyer shall provide those items and services that Buyer has agreed to provide under the Contract in order to facilitate the installation work and/or tests. If Seller requires other items or services, such items or services shall be provided at Seller's expense by Seller or, if Buyer agrees, by Buyer.
- 4.3 Testing shall continue until Buyer either accepts or rejects the Deliverables as being or not being in compliance with the Contract. Notification of such shall be given by Buyer without undue delay.
- 4.4 Delivery is successfully completed when the installation work and/or tests have been completed and Buyer has confirmed in writing that the Deliverables are accepted.
- 4.5 If Buyer validly rejects the Deliverables, it shall notify Seller and Seller shall uninstall and remove them. Unless otherwise agreed in the Contract, Buyer shall not be liable for any further payments to Seller under the Contract.
- 4.6 Unless otherwise agreed in the Contract, the agreed Contract price includes the costs of installation work and tests.

## 5 PROGRESS AND DELAYS

- 5.1 If Seller becomes aware that it will be unable to meet the agreed milestone or delivery date(s), it shall immediately notify Buyer in writing and include the reason for the delay, proposals to minimise the delay and the anticipated new milestone or delivery date(s).
- 5.2 Buyer is not liable for any costs related to delays unless such delay is caused by Buyer. To avoid doubt, unless delivery is conditional upon payment, Buyer's delay in its payment obligations under the Contract shall never be deemed to cause a schedule delay for which Buyer is responsible.
- 5.3 Regardless of the cause of the delay, Seller is liable for those costs, expenses and losses suffered by Buyer which could have been avoided if Seller had notified Buyer of the delay upon becoming aware of it.
- 5.4 Unless otherwise agreed in the Contract, liquidated damages shall accrue at a rate of 0.3% of the total Contract price per day by which the milestone or delivery date is delayed, subject to a total limit of 15% of the total Contract price.
- 5.5 If the delay is caused by gross negligence of or a wilful breach by Seller or someone for whom Seller is responsible, Buyer may, instead of claiming liquidated damages, claim compensation for the losses suffered due to the delay.
- 5.6 Unless agreed otherwise in the Contract and subject to Article 5.7, Buyer may terminate the Contract with immediate effect upon any material delay.
- 5.7 If delivery is delayed and the Deliverables are manufactured to Buyer's specification such that Seller is unable to dispose of the Deliverables without incurring considerable losses, Buyer may only terminate the Contract if the maximum liquidated damages have accrued or the delay constitutes a material breach of the Contract.

## 6 DELIVERY, TITLE AND RISK

- 6.1 Unless otherwise agreed in the Contract, title to each Deliverable passes from Seller to Buyer at the earlier of:
- payment of the agreed purchase price for the Deliverable; and
  - delivery of the Deliverable at Buyer's nominated delivery location.
- 6.2 Risk of loss of and damage to the Deliverables passes from Seller to Buyer upon delivery of the Deliverable at Buyer's nominated delivery location.
- 6.3 For the purposes of this Article 6, if Seller shall carry out installation work and/or testing, delivery occurs only when Buyer has confirmed its acceptance of the Deliverables.
- 6.4 Any reference to Incoterms in delivery obligations shall be deemed to be a reference to the latest version of Incoterms at the date of the Contract.

## 7 VARIATIONS

- 7.1 Within the scope of what the parties could reasonably have expected at the time the Contract was entered into, Buyer may require a variation with regard to the quality and/or quantity of the Deliverables, the milestone or delivery date(s) and any other aspect of the Work ("**Variation**").
- 7.2 If Seller considers that a Variation is required, Seller shall without undue delay notify Buyer in writing of such requirement and the reason for it.
- 7.3 If Buyer notifies Seller that it requires a Variation, Seller shall, without undue delay, submit in writing a description of the Variation work together with an estimate of any effects on the Contract price and the Work schedule.
- 7.4 All Variations must be approved and issued by Buyer by means of a written variation order prior to Seller initiating the Variation work.
- 7.5 Compensation for Variation work shall be in accordance with the prices and rates contained in the Contract or, where such cannot be applied, the general price level of the Contract (e.g. taking account of discounts given to Buyer in the Contract). If a Variation provides cost savings to Seller, Buyer shall be credited accordingly.
- 7.6 If the parties disagree as to (i) whether a Variation is required or (ii) the effects of the Variation, including the impact on costs and schedule, such dispute shall be recorded on a disputed variation order issued by Buyer and Seller shall implement the work identified therein without awaiting the final outcome of the dispute. Disputes shall be settled in accordance with Article 21.

## 8 PAYMENT

- 8.1 Unless otherwise agreed in the Contract, Seller shall, as soon as reasonably practicable following completion of the Work, submit an invoice including all sums for the Deliverables. If it is agreed that Seller may invoice regularly or in instalments of the Contract price, the final invoice must include all outstanding sums and be presented within 60 days of the completion of the Work.
- 8.2 Subject only to any applicable security of payments legislation, Buyer shall pay correct and valid invoices 30 days from invoice date.
- 8.3 Seller's invoices must include the Contract number (and any other agreed references) and a description of the Deliverables to which the invoices relate. Buyer is entitled to reject invoices that do not meet these requirements.
- 8.4 Unless otherwise agreed, invoiced amounts shall be inclusive of all relevant duties, taxes and levies. If Buyer requests, Seller shall provide evidence to Buyer of payment of all relevant duties, taxes and levies. Failure to provide such evidence entitles Buyer to withhold payment under the Contract.
- 8.5 If it has been agreed that Seller shall provide a bank and/or parent company guarantee, Buyer shall not be obliged to make any payments prior to receipt of such guarantee(s).
- 8.6 Buyer is entitled to deduct and/or set off against Seller's invoices any disputed or insufficiently documented amounts, prepayments, amounts owed by Seller to Buyer or Buyer's affiliated companies and any accrued liquidated damages. Affiliated companies shall mean any company in which Norsk Hydro ASA directly or indirectly controls 50% or more of the share capital.
- 8.7 Buyer may, for up to two years after receipt of the final invoice, audit at Seller's premises all payments for reimbursable work.

## 9 GST

- 9.1 If any supply made under this Contract is subject to GST, the Recipient must pay to the Supplier, in respect of that supply, an amount sufficient to ensure that the Supplier retains after payment of GST the amount that the Supplier would have received had GST not been payable.
- 9.2 Subject to Article 9.3, the Recipient must pay any amount payable under Article 9.1 on the same date as payment must be made for the supply giving rise to the liability for GST.
- 9.3 Despite any other provision of this Contract, a Recipient need not make a payment under Article 9.1 until the Supplier has given the Recipient a GST tax invoice for that payment stating the amount of GST paid or payable by the Supplier in respect of the supply to which the GST tax invoice relates.

## 10 SUSPENSION AND CANCELLATION

- 10.1 Buyer may temporarily suspend the Work or parts thereof by written notice to Seller. Following such notice, Seller shall, without undue delay, inform Buyer of the effects of the suspension on the Work. During the suspension period, Buyer shall only compensate Seller for documented, necessary and reasonable expenses incurred in connection with demobilisation and remobilisation of personnel. Seller shall resume the Work when requested by Buyer. If the suspension period exceeds 90 days, Seller is entitled to cancel the Contract by written notice to Buyer.
- 10.2 Buyer may cancel the Deliverables or parts thereof with immediate effect by written notification to Seller. Following cancellation, Buyer shall only pay Seller's documented, necessary and reasonable expenses incurred as a direct result of the cancellation.

## 11 DEFECTS AND GUARANTEE LIABILITY

- 11.1 Unless otherwise agreed in the Contract, Buyer shall inspect the Deliverables within a reasonable time after delivery. Buyer is under no obligation to inspect the Deliverables prior to delivery.
- 11.2 If Seller shall carry out installation work and/or testing, the obligation to inspect does not arise until the Deliverables have been accepted. If Seller carries out rectification work on the Deliverables, Buyer's obligation of inspection arises upon completion of the rectification work.
- 11.3 Neither Buyer's inspection of the Deliverables nor Buyer's receipt of drawings or samples for Buyer's inspection prior to delivery shall limit Seller's obligation to ensure that the Deliverables are in compliance with the Contract.
- 11.4 If Buyer discovers a defect during inspection or at any time during the guarantee period set out in Article 2.2, Buyer shall issue a written notice of defect to Seller within a reasonable time after its discovery.
- 11.5 If the defect is discovered during a delivery inspection, Buyer may:
- if the defect is material, reject the Deliverables and apply the provisions regarding delays in Article 5; or
  - order Seller to commence rectification of the defect without delay or at a time reasonably requested by Buyer.
- 11.6 If the defect is discovered during the guarantee period, Seller shall commence rectification of the defect without delay or at a time reasonably requested by Buyer. At Buyer's discretion, rectification of a defect at any time shall be either repair or substitution/re-performance of the Deliverable.
- 11.7 If Seller fails to rectify the defect within a reasonable time, Buyer is entitled to rectify the defect itself or employ a third party to do so at Seller's risk and expense. The same shall apply if awaiting Seller's rectification would be likely to cause substantial inconvenience to Buyer. In such cases, Buyer shall notify Seller in writing prior to initiating the rectification work.
- 11.8 All costs of and in connection with the rectification work shall be borne by Seller. In addition, unless Buyer rejects the Deliverables under Article 11.5 and applies the provisions regarding delays, Buyer is entitled to claim compensation for losses suffered due to defects.
- 11.9 If a defect is so substantial that it is evident that the purpose of the Contract cannot be fulfilled, Buyer may prevent Seller from attempting to rectify the defect and terminate the Contract by written notice.

## 12 INDEMNITIES

- 12.1 Seller shall indemnify Buyer against all damages, claims, costs, losses and expenses incurred by Buyer as a result of a third party claiming that the Deliverables constitute an infringement of their intellectual property rights, unless the Deliverables were made to Buyer's specifications and Seller did not know and ought reasonably not to have known that such an infringement would occur.
- 12.2 Seller shall, regardless of fault, indemnify Buyer against all damages, claims, costs, losses and expenses incurred by Buyer as a result of any bodily injury or loss of life among Seller's employees and persons for whom it is responsible in connection with the Work.
- 12.3 Buyer shall, regardless of fault, indemnify Seller against all damages, claims, costs, losses and expenses incurred by Seller as a result of any bodily injury or loss of life among Buyer's employees and persons for whom it is responsible in connection with the Work.
- 12.4 For any damages, claims, costs, losses or expenses suffered by a party or any third party in connection with the Work other than those described in Articles 12.1 to 12.3, the party causing such damage, claim, cost, loss or expense shall indemnify the other party in relation thereto.

## 13 CONTRACT TERMINATION

- 13.1 In addition to the termination rights set out elsewhere in these Conditions, either party may terminate the Contract if the other party:
- becomes insolvent or is the subject of insolvency proceedings; or
  - commits any material breach of the Contract which, if such breach can be remedied, is not remedied within 30 days of receiving notice of such breach.
- 13.2 Buyer may also terminate the Contract if it becomes entitled to be paid the maximum amount of liquidated damages under the Contract.
- 13.3 The party initiating termination shall be indemnified by the other party against all costs and losses incurred as a result of the termination.
- 13.4 Any indemnity or obligation of confidence under the Contract is independent and survives termination of the Contract. Any other term which by its nature is intended to survive termination of the Contract, survives such termination.

## 14 FORCE MAJEURE

- 14.1 Force majeure means an occurrence beyond the control of the party affected (i) that could not reasonably have been foreseen or avoided at the time of entering into the Contract and (ii) its consequences could not be overcome.
- 14.2 A party shall not be considered in breach of the Contract to the extent it can prove that it was unable to fulfil its obligations due to force majeure. Each party shall cover its own costs resulting from force majeure.
- 14.3 The party invoking force majeure shall notify the other party without undue delay including a description of the effects and the presumed duration. The party invoking force majeure shall use all reasonable endeavours to minimise the effects and duration of the force majeure event.
- 14.4 If the effects of the force majeure event continue, or it is obvious that they will continue, for more than 60 days, the party who did not invoke force majeure may terminate the Contract.

## 15 INTELLECTUAL PROPERTY RIGHTS

- 15.1 If either party has provided any intellectual property for the performance of the Work, ownership of such intellectual property shall remain with the party who provided it. Where improvements to such intellectual property are made during the performance of the Work, such improvements will be owned by the party who owns the original intellectual property. Each party is granted a royalty free, irrevocable licence to use the other's intellectual property referred to in this Article, only for the purposes of performing the Work and/or utilising the Deliverables. The parties shall keep each others intellectual property confidential in accordance with Article 166.
- 15.2 If, during the performance of the Work, new intellectual property is created which is not an improvement of existing intellectual property as governed by Article 15.1, it will be owned by Buyer.

## 16 CONFIDENTIALITY

- 16.1 All commercial, financial and technical information exchanged between the parties ("**Confidential Information**") shall be treated by the parties as confidential and shall be used solely for the purposes of performing their obligations under the Contract.
- 16.2 Information shall not be regarded as Confidential Information if: (i) it was already known to the receiving party at the time it was received, (ii) it is or becomes public knowledge (except through a breach of this Contract), (iii) the party has independently created the information, (iv) it is rightfully received from a third party without an obligation of confidence or (v) it is required to be disclosed due to applicable laws and regulations.
- 16.3 Confidential Information may be disclosed to any person who requires knowledge of it for the purposes of the Contract, utilisation of the Deliverables or in contemplation of the purchase of the business of a party, provided that such person is bound by confidentiality obligations consistent with this Article 166. All other disclosures of Confidential Information require the written consent of the other party.
- 16.4 If Buyer requests that specific personnel of Seller, or persons to whom Seller wishes to disclose Confidential Information, enter into a separate confidentiality agreement with Buyer, Seller shall use all reasonable endeavours to procure this.
- 16.5 If Buyer notifies Seller that certain Confidential Information requires special storage and handling, Seller shall implement such requirements without delay.
- 16.6 Without Buyer's written consent, Seller shall not issue any press release or otherwise disclose the existence or contents of this Contract.

## 17 INSURANCE

- 17.1 Unless specific insurance is a requirement in the separate contract/purchase document, Seller shall maintain appropriate insurance policies in order to protect the Deliverables and itself against potential risks and liabilities that may arise from the performance of the Work.
- 17.2 If requested by Buyer, Seller shall provide certified copies of original insurance certificates for the insurance required under the Contract.

**18 LIMITATION OF LIABILITY**

17.1 In no circumstances (other than under any indemnities in Article 122 or in the event of wilful misconduct or gross negligence) is either party liable to the other for any loss of profit, revenue, business, contracts or anticipated savings or any special, contingent, indirect or consequential loss or damage.

**19 NOTICES**

Any notices, claims or communications required to be made under the Contract shall be sent by letter, fax or confirmed electronic mail to the other party's appointed representative.

**20 ASSIGNMENT OF THE CONTRACT**

Buyer is entitled to assign, novate or transfer its rights and obligations under the Contract, fully or partly, to any third party without requiring the consent of Seller. Seller may not assign, novate or transfer its rights and obligations under the Contract without Buyer's written consent, which shall not be unreasonably withheld.

**21 ENTIRE AGREEMENT**

The Contract constitutes the whole agreement between the parties and supersedes any previous arrangement, understanding or agreement between them relating to the subject matter it covers.

**22 APPLICABLE LAW AND LEGAL VENUE**

The Contract and all related disputes, contractual and non-contractual, shall be governed by the law of New South Wales and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales.

## Schedule “A” Health & Safety Requirements

### Definitions:

‘Act’ means the State act (including associated Regulations) relating to work health and safety applicable in the relevant State or Territory of Australia in which the Seller carries out the work under the Contract.

‘Principal Contractor’ has the same meaning as defined under 293 of the WHS Regulation.

### 1 Legislation, Regulations, Codes and Hydro Aluminium Kurri Kurri Policies

Without limiting the generality of any other provision of this Contract, the Seller must comply with the provisions of the WHS Act, Codes and Draft Codes of Practice including any Industry Standards which are relevant to any part of the work under this Contract.

In performing the work under this Contract (Work), the Seller or any third party engaged or permitted by the Customer to carry out the Work (each, the Company) must comply with and ensure its Workers comply with:

- a. all applicable laws, which shall include the WHS Act, Codes and Draft Codes of Practice including any Industry Standards which are relevant to any part of the Work ; and
- b. the Hydro Aluminium Kurri Kurri WHS Management Plan; and
- c. the Hydro Aluminium Kurri Kurri WHS Policy; and
- d. any policy or procedures of the Buyer relating to safety and public health (including, without limitation, work health and safety); and
- e. any other requirements that the Buyer may reasonably prescribe with respect to health and safety or related matters, including site safety rules; and
- f. any consultative requirements established on the site where the Work is performed (Site) for health and safety consultation and which are communicated to the Company by the Buyer.

### 2 Company Acknowledgement

The Company acknowledges and agrees that it is:

- a. the person conducting a business or undertaking (PCBU) engaging Workers (whether under a contract of employment or otherwise) for the Work under this Contract; and
- b. an occupier (to the exclusion of any Principal Contractor in respect of the Work and the Buyer) of the Site to the extent required to undertake the Works, and shall undertake all the duties and responsibilities of a PCBU and the occupier of a workplace as set out in the WHS Act or any other legislation or requirements relating to work health and safety.

### 3 Incident Notification and Reports

In carrying out the Works, or performing any Work under this Contract, the Company, in addition to, and not in derogation of the requirements of this Contract, must:

- a. verbally notify the Buyer or the Seller where it is appointed as the Principal Contractor in respect of the Work) (Relevant Principal) immediately of all injuries, property damage and incidents (including dangerous occurrences or dangerous incidents as defined in the WHS Act) that may occur (whether to property or persons of the Company, the Buyer or any third party);
- b. ensure that the scene of any notifiable incident (as defined in the WHS Act) is not disturbed until authorised by the Relevant Principal Contractor (unless to the extent allowable pursuant to the WHS Act or to ensure that the scene is safe); and
- c. provide to the Relevant Principal, reports of:
  - (i) all injuries and incidents involving the Company’s Workers engaged on work at the Site;
  - (ii) any injuries and incidents involving members of the public;
  - (iii) any damage to property occurring on the Site; and/or
  - (iv) any dangerous occurrences or dangerous incidents, arising from or associated with the carrying out of the Works by the Company or any other activities on the Site, including steps taken or to be taken to prevent recurrence.

### 4 Risk Assessment

- a. The Company shall document and submit to the Relevant Principal for acceptance, Safe Work Method Statements (SWMS) for review in accordance with the relevant Safety Management Plan from time to time.
- b. As a minimum, the documents required under 4a. shall be submitted 5 working days prior to commencing work and shall state the following:
  - (i) the Company’s representative and supervisor for the purpose of the Act;
  - (ii) the tasks and activities to be performed;
  - (iii) methodology on how the tasks and activities are to be conducted;
  - (iv) the hazards associated the with tasks/activity;
  - (v) the proposed method of controlling the hazards identified;
  - (vi) the training (including required licenses, accreditations, permits, certification and the like), experience and any particular attributes required of workers performing the tasks/activities;
  - (vii) The Codes and Regulations the tasks/activities are covered by.
- c. The Company must ensure all direct and indirect workers are suitably supervised, trained and instructed in the Work under this Contract performed by the Company and how the tasks and activities are to be conducted safely, including through:
  - (i) Convening and facilitating, or participation in Job Safety Environment Risk Analysis (JSERA) or their equivalent risk assessment formats, to assess and document the hazards and risks of tasks and activities and develop methods to eliminate or control the hazards and risks;
  - (ii) Co-operative participation in regular safety onsite inspections at times nominated by the Relevant Principal;
  - (iii) Immediate discontinuance of any practice (including removal of equipment) considered by the Relevant Principal to be dangerous, notwithstanding that the relevant practice, or equipment may have previously been accepted; and
  - (iv) Being subjected to and cooperating with SWMS / JSERA or equivalent reviews and/or audit by the Relevant Principal to determine the suitability of these risk assessments;
- d. The Company must review each JSERA or its equivalent risk assessment before works commence on a daily basis and each Worker shall sign onto the document

to demonstrate understanding and commitment to implement the agreed control measures. The Company must provide a copy of those reviews to the Relevant Principal.

- e. A failure by the Company to comply with the provisions of these requirements shall constitute a material breach of this Contract.

## 5 Housekeeping

- a. The Company shall not, at any time, leave work in an unsafe condition or any condition that might cause damage to existing work, plant or equipment or injury to persons but shall continue that work until it is at a safe stage. The cost of any such continuation of work shall be borne by the Company.
- b. The Company must ensure necessary barricades are set up to prevent unauthorized personnel or vehicles inadvertently entering the work area.

## 6 Hazardous Chemicals including Dangerous Goods

- a. Prior to bringing any substance onto the site, whether for incorporation into the Works or otherwise, the Company must provide the Relevant Principal with a Safety Data Sheet for the handling and/or application of the substance.
- b. The Relevant Principal may reject any Safety Data Sheet which does not provide adequate information to make an assessment of the health or safety risk of the substance.
- c. Notwithstanding the Relevant Principal's acceptance for the use or incorporation of a substance, the Company shall remain wholly responsible and liable for the work under this Contract and for the Works.
- d. The Relevant Principal's failure or refusal to accept any substance for use or incorporation into the Works shall not entitle the Company to an extension of time or to claim cost, loss expense or damage for delay, disruption, breach of contract, or in tort, including negligence, misrepresentation or otherwise, or to claim on any other basis whatsoever whether under this Contract, arising out of it, in relation to it or otherwise.
- e. The Company must establish and maintain a Register of Hazardous Chemicals retained on Site, and obtain, for each hazardous chemical, a Safety Data Sheet, copies of which should be made available to users, and other Workers upon request.
- f. The Company must comply with the provisions of the WHS Act which prohibit the manufacture, supply, storage, transport, sale, use, re-use, installation and replacement of all forms of asbestos and asbestos-containing material with some limited exceptions.
- g. The storage and handling of flammable and combustible liquids shall be carried out in accordance with all relevant Australian Standards (including AS1940 and AS1988). The Company must advise the Relevant Contractor before flammable materials are brought to the Site for storage.
- h. Storage of oxy / acetylene, when not in use, shall be in a locked store. Bottles shall not be left freestanding. Any storage trolleys used for this purpose shall have an appropriate fire extinguisher attached.

## 7 Confined Spaces

- a. Entry to confined spaces shall be in accordance with the Act, AS/NZS 2865 Safe Working in a Confined Space and with the Hydro WHS Management Plan.
- b. The Company must submit to the Relevant Principal, a request for acceptance of a Confined Space Entry Permit and to receive confirmation of acceptance and issue of same before entering any confined space

## 8 Personal Protective Equipment (PPE)

- a. The Company must ensure that each of its workers or personnel in attendance on the Site wears, as a condition of entrance to the Site, the following mandatory PPE (and provides such PPE to its Workers at the Company's own cost):
  - (i) high visibility cotton drill shirt with reflective tape;
  - (ii) cotton drill trousers or high visibility overalls;
  - (iii) steel cap safety boots / shoes;
  - (iv) hard hat (with reflective stripes);
  - (v) safety glasses;
  - (vi) gloves;
  - (vii) hearing protection in signposted areas; and
  - (viii) other personal protective equipment relevant to the task being undertaken, such as:
    - Respiratory protection equipment (partial or full face masks) P2 protection or higher;
    - Cover all's (sperm suits);
    - Face shields;
    - Chemical gloves; and
    - Harnesses and tool lanyards.

## 9 Electrical Tools and Equipment Safety

- a. The Company must comply with the relevant Industry Standard for Electrical Installations on Construction Sites.
- b. Where the Company proposes not to adopt the relevant Industry Standard for Electrical Installations on Construction Sites it must advise the Relevant Principal of the proposed alternative procedure or practice and the reason for not complying with the Industry Standard. Any such alternative procedure must be demonstrated to be to a higher safety standard than the Industry Standard.
- c. The Company accepts full liability for not complying with any provision of the Industry Standard regardless of any discussions with or advice it may have provided to or received from the Relevant Principal on alternative practices.
- d. All electrical equipment and tools shall be checked and tagged in accordance with industry guidelines.
- e. The Company is required to provide adequate facilities to ensure that electrical leads are elevated in accordance with applicable industry standards.
- f. Where tools or equipment fail to meet the requirements of the applicable electrical safety acts and AS 3000, the tools and equipment shall be immediately repaired, checked and tagged at the Company's expense or removed from the site and replaced with compliant tagged tools or equipment as is necessary to carry out the work under this Contract.

## 10 Alcohol and Drugs

- a. Under no circumstances are alcohol or non-prescription drugs to be taken on to the Site or consumed on the Site by the Company or its Workers. Persons found to be under the influence of alcohol or non-prescribed drugs shall immediately cease work and either be removed from the Site or be confined to a safe non-working area of the Site.
- b. All workers of the Company will be subject to and must comply with the Relevant Principal's Drug and Alcohol Policies and Procedures which include prescription medication that can impair fitness for duty.

## 11 Work at Height

- a. Any work performed where there is a potential to fall from one level to another shall be carried out in accordance with the WHS Act and the Hydro WHS Management Plan.

## 12 Plant and Equipment

- a. Prior to bringing any plant or equipment to the Site, the Company must carry out and provide to the Buyer and any Principal Contractor, copies of Plant Hazard Risk Assessments for the work to be undertaken, up to date Maintenance Records, Log Books and copies of any plant certification (Crane Industry certification or equivalent) where relevant.
- b. Each item of plant brought onto Site must be accepted by the Buyer and any Principal Contractor. Such acceptance shall not relieve the Company of its sole and absolute responsibility for that plant and to execute the Works safely.

- c. All crane and lifting operations on the Site must be performed by competent operators, dogman and riggers utilizing well maintained and fit for purpose rigging and slinging gear.
- d. All cranes shall comply with the relevant parts of AS1418 and shall be used in accordance with the relevant parts of AS2550.
- e. Lift studies will be required for significant lifts.

**13 Excavation and Trenching**

- a. Any excavation and trenching work shall be carried out in accordance with the WHS Act and the Hydro WHS Management Plan.
- b. The Company must submit to the Buyer and any Principal Contractor a request for acceptance of an Excavation and Trenching Permit, and to have that Permit accepted, before breaking ground.

**14 Communication and Safety Meetings**

- a. The Company must meet regularly (no less than monthly) with the Buyer and any Principal Contractor's Site management team to discuss Health & Safety activities and safety interface requirements and to review incident reports and trends. It is anticipated that the Company (depending on the number of workers) may be represented by a Safety Representative from the workforce and one from the management staff.
- b. The Company must conduct Daily Pre-Start meetings with its Workers and be able to provide a copy of those Daily Pre-Start meeting records to the Relevant Principal upon request.
- c. The Company must conduct weekly Toolbox meetings with its Workers to promote and discuss work health and safety matters or attend Toolbox meetings as directed by the Relevant Principal and be able to provide a copy of those Toolbox meeting records to the Buyer upon request.
- d. The Company must participate in Safety Education Programs that are provided for Workers of the Company at times to be nominated by the Buyer and any Principal Contractor. Such Safety Education Programs shall be provided by the Buyer and any Principal Contractor free of charge to the Company. However, the Company must allow its personnel to attend such Safety Education Programs and shall pay the costs of his worker's time with no reimbursement of such costs from the Buyer and any Principal Contractor.
- e. The Company must display on notice boards, pamphlets, posters and notices in respect of work safety, as directed by the Buyer and any Principal Contractor.

**15 Training and Certificates of Competency**

- a. The Company must carry out the Work in such a manner as to avoid injury or damage to any person or property. Notwithstanding the foregoing, the Company must:
  - (i) Ensure that prior to commencing work on the Site; the Company's personnel (including invitees) and personnel of any subcontractors have completed the appropriate construction industry induction and will attend a Site Induction provided by the Buyer and the Seller (where appointed the Principal Contractor in respect of the Work);  
Note: There are set times for Inductions. The Company must check with the Buyer's management and organize for personnel to attend accordingly.
  - (ii) Provide to the Principal Contractor on the commencement of work at the workplace, all relevant licences to operate high risk plant, verification of competency for operators of plant and equipment and records of training;
  - (iii) Allow any member of its workforce elected to a Health and Safety Committee (HSC) time to attend to their duties as a member of such a committee or Work Group. The cost of this shall be borne by the Company.

16 Health and Safety Deliverables

a. Pursuant to the requirements of this Contract, the Company must fulfil the following requirements:

No	Requirement	When	Documents submitted to Hydro Aluminium	How
1.	Nominate a person responsible for WHS&R.	Before start of work	5 days prior to commencement	Email Hydro WHS Manager
2.	Nominate a qualified RTW Coordinator.	Before start of work	5 days prior to commencement	Email Hydro WHS Manager
5.	Notify Hydro of workers attending site safety induction	Before start of work	5 days prior to commencement	Email Hydro Representative
6.	Inspection & maintenance records and registration details for all static plant	Before using plant	5 days prior to commencement	Email Hydro Representative
7.	Plant Hazard Assessments (PHA) or equivalent	Before using plant	5 days prior to commencement	Email Hydro Representative
8.	Plant pre-start check sheets	Before using plant	Retain in Plant	NA
10.	Pre-Start Meeting Records	Daily	As requested	NA
11.	Ensure subcontractor workers are fit for work	Daily	NA	NA
12.	Report any incident notification or investigations to Hydro Aluminium Kurri Kurri	Immediately	Immediately	Verbally in the first instance, written when available
13.	Subcontractor to attend all medical appointments and provide related paperwork to Hydro Aluminium Kurri Kurri such as WC medical certificates and RTW plans.	N/A	Med certificates & RTW Plans to Hydro Aluminium	Within 2 days
14.	Notify Hydro Aluminium Kurri Kurri of any Improvement or Prohibition Notices	Immediately	Immediately	Verbally in the first instance, written when available
16.	Copies of worker's licence to operate high risk plant and verification of their competency	When booking induction	Prior to commencing	Email Hydro Representative
17.	Copies of Safe Work Method Statements or equivalent for works	On start & developed	On start and as developed	Submitting to site engineer
18.	Provide subcontractor workers with PPE requirements	On start & fair wear	N/A	N/A
19.	Copies of Safety Data Sheets (SDS) and register	Prior to use	Prior to commencing activity	Submitting to site engineer
20.	Complete Excavation and Trench Permits	Prior to activity	Prior to commencing activity	Submitting to site engineer
21.	Complete Isolation Permits	Prior to activity	Prior to commencing activity	Submitting to site engineer
22.	Complete Confined Space Permits	Prior to activity	Prior to commencing activity	Submitting to site engineer
24.	Toolbox Talk Records	Weekly	As requested	NA
27.	Attend weekly Observations and conduct in-situ audits of own SWMS / JSERA.	Weekly	Weekly	Email Hydro Representative
31.	Fall Prevention equipment inspections & tagging records	Quarterly	As requested	NA
32.	Electrical tools & RCD inspections & tagging records	Monthly	As requested	NA
34.	Provide copies of licenses for demolition and/or asbestos removal	Prior to activity	License	Submitting to site engineer
36.	Crane lift studies	5 days Prior to lifting	Lift study	Submitting to site engineer