

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the matter of:)
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)
Hydro Extrusion USA, LLC) EPA Case No. 22-1241-00
) EPA Case No. 22-1241-02
)
Norsk Hydro ASA) EPA Case No. 22-1241-01
)

ADMINISTRATIVE AGREEMENT

I. INTRODUCTION

This Administrative Agreement and its attachments (collectively, the “Agreement”) is made between the U.S. Environmental Protection Agency (“EPA”), acting as lead federal agency, and Hydro Extrusion USA, LLC (“Hydro USA” or “Respondent”) and Norsk Hydro ASA (“Norsk Hydro” or “Respondent”) (collectively, “Respondents”) in order to resolve all matters relating to discretionary suspension, debarment, and statutory disqualification, and any suspension and debarment matter based on affiliation or imputation arising from Hydro USA’s conviction, on December 11, 2023, in the U.S. District Court for the District of Oregon (“District Court”) on one count of negligently releasing a hazardous air pollutant into the ambient air, thereby negligently placing another person in imminent danger of death or serious bodily injury, in violation of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(c)(4). Attachment 1 – Judgment, *United States v. Hydro Extrusion USA, LLC*, No. 3:22-CR-00299-MO (D. Or. Dec. 11, 2023); Attachment 2 – Information, *United States v. Hydro Extrusion USA, LLC*, No. 3:22-CR-00299-MO (D. Or. August 23, 2022); Attachment 3 – Plea Agreement, *United States v. Hydro Extrusion USA, LLC*, No. 3:22-CR-00299-MO (D. Or. Jan. 24, 2023).

II. DEFINITIONS

- 1. AGENT.** Any person, as defined by 2 C.F.R. § 180.985, who acts on behalf of or who is authorized to commit any Respondent in a covered transaction under the Nonprocurement Common Rule (2 C.F.R. Part 180) or any transaction covered under the Federal Acquisition Regulation (“FAR”) (48 C.F.R. Chapter 1).
- 2. AFFILIATE.** As defined in 2 C.F.R. § 180.905, an affiliate to any Respondent is any entity that directly or indirectly, controls or is controlled, or has the power to control or be controlled by Respondents. In addition, an affiliate to any Respondent is any entity that is controlled by the same third person as any Respondent. Indicia of control include, but are not limited to: (a) interlocking management or ownership; (b) identity of interests among family members; (c) shared facilities and equipment; (d) common use of Employees; or (e) a business entity which has been organized following the exclusion of a person which has the same or similar management, ownership, or principal Employees as the excluded person.

3. **ARM'S LENGTH TRANSACTION.** A bona fide transaction between a purchaser and a seller, each acting independently and having no relationship to each other. Both parties in the transaction are acting in their own self-interest and are not subject to any pressure or duress from the other party. Transactions between affiliates shall not be considered to be arm's length transactions for purposes of this Agreement, regardless of how the transactions are structured.
4. **CONTRACT PERSONNEL.** An Employee who works for one person (subject to that person's salary and benefits structure) whose services are sold on a project or time basis to another person.
5. **CONTRACTOR.** Any person with whom any Respondent has a contract. Contract means a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate any Respondent to an expenditure of funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to) awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. Contracts do not include nonprocurement transactions as defined in 2 C.F.R. § 180.970.
6. **COVERED TRANSACTION.** A nonprocurement, procurement, or other transaction as defined in 2 C.F.R. Part 180, Subpart B, and 2 C.F.R. § 1532.220. See also Appendix to 2 C.F.R. Part 180 (illustrating primary tier and lower tier covered transactions) and 2 C.F.R. § 180.970 (defining nonprocurement transactions). Covered transactions include, but are not limited to, assistance agreements (binding agreements between a federal agency and any Respondent which provides financial assistance to the Respondent in the form of a grant, cooperative agreement, or similar instrument).
7. **EMPLOYEE.** Includes any individual providing services on behalf of any Respondent. This includes, but is not limited to, any permanent, temporary, full-time, or part-time Employees; volunteers; agents; and "Principals" as defined at "II. 16" below.
8. **EPA AUTHORIZED REPRESENTATIVE(S).** The EPA official(s) who is the primary EPA contact(s) for the purpose of monitoring this Agreement. That person(s) is listed at paragraph "V. 31" herein. Unless specifically stated otherwise herein, all matters involving this Agreement shall be coordinated through this person(s), including but not limited to, questions, submittals, and other communications.
9. **EXCLUDED TRANSACTION.** A transaction in which a person is prohibited from being a participant or principal, whether the person has been suspended, debarred, or proposed for debarment under 48 C.F.R. Part 9, Subpart 9.4, the Nonprocurement Common Rule (2 C.F.R. Part 180), or voluntarily excluded. Excluded transactions include covered transactions under the Nonprocurement Common Rule (2 C.F.R. Part 180) and transactions covered under the

FAR (48 C.F.R. Chapter 1). Excluded transactions include transactions with excluded persons.

- 10. FACILITY(IES).** Throughout this Agreement, facility(ies) shall refer to Hydro USA's U.S. manufacturing plant(s)/facility(ies).
- 11. FEDERAL AGENCY.** As defined in 2 C.F.R. § 180.950, any United States executive department, military department, defense agency, or any other agency of the executive branch.
- 12. GOVERNMENTAL ENTITY.** Includes all U.S. federal, state, and local government agencies or instrumentalities. State, as defined in 2 C.F.R. § 180.1005, shall include any of the states of the United States; the District of Columbia; the Commonwealth of Puerto Rico; any territory or possession of the United States; or any agency or instrumentality of a state.
- 13. INELIGIBLE TRANSACTION.** A transaction in which a person is prohibited from being a participant or principal pursuant to the CAA and/or Clean Water Act, as applicable. If a person is convicted of any offense described in 2 C.F.R. § 1532.1105, the person is automatically disqualified from eligibility to receive any covered transaction under the Nonprocurement Common Rule (2 C.F.R. Part 180) and transactions covered under the Federal Acquisition Regulation (48 C.F.R. Part 9, Subpart 9.4), if the person will perform any part of the transaction or award at the facility giving rise to the person's conviction and the person owns, leases, or supervises the violating facility. See 2 C.F.R. Part 1532, Subpart J.
- 14. PERIOD OF TIME.** The number of days as referenced in this Agreement shall be calculated by calendar days inclusive of weekends and holidays. Deadlines falling on a weekend or holiday shall automatically be extended to the next business day.
- 15. PERSON.** As defined in 2 C.F.R. § 180.985, any individual, corporation, partnership, association, unit of government, or legal entity, however organized.
- 16. PRINCIPAL.** As defined in 2 C.F.R. § 180.995; 2 C.F.R. § 1532.995(a)(b)(c)(e) and (g); and 48 C.F.R. § 2.101(b); this includes, but is not limited to, officers, directors, owners, partners, or other person having primary management or supervisory responsibilities within a business entity.
- 17. RESPONDENT.** A person against whom the EPA has initiated or is considering initiating a debarment and/or suspension action, or is facing a potential statutory disqualification or is statutorily disqualified.
- 18. RESPONDENT'S AUTHORIZED REPRESENTATIVE(S).** A Respondent's official(s) who is the Respondent's primary contact(s) for the purpose of the Respondent's compliance with this Agreement. That person(s) is listed at paragraph "V. 31" herein. All matters involving this Agreement shall be coordinated through this person(s), including, but not limited to, questions, requests, and other communications.

III. PREAMBLE

Overview of Hydro USA

1. Norsk Hydro is based in Norway and employs more than 32,000 people in more than 140 locations across 40 countries, including the United States. Attachment 4 at 18 – Norsk Hydro 2022 Annual Report. Norsk Hydro owns and operates businesses and has investments with a base in industries in a broad range of market segments for aluminum and metal recycling, energy, renewables, and batteries. *Id.* Norsk Hydro has more employees in the United States than any other Norwegian company; it has, through its affiliate Hydro USA, approximately 6,000 employees in the United States. Attachment 5 – Norsk Hydro “About Hydro/Hydroworldwide /Americas /United States” webpage. Norsk Hydro’s Extrusions business has 19 manufacturing locations in the United States, delivering extruded aluminum solutions, including heat exchange tubing, to customers in all industries. *Id.* Norsk Hydro also performs aluminum casting at 10 U.S. locations and has offices for technical services, aluminum building systems brands, and for its global Shared Service organization. *Id.* Norsk Hydro has primary compliance responsibility group-wide, including at Hydro USA, with the exception of certain compliance responsibilities for Hydro USA. Those compliance responsibilities were transitioned, in 2019, to Hydro USA’s Vice President of Legal with indirect reporting to Norsk Hydro’s Head of Group Compliance.¹ The VP of Legal reports to Norsk Hydro’s Board Audit Committee on Hydro USA’s compliance program. Attachment 6 at 3 – Hydro USA’s Initial Compliance Report to DOJ, dated Apr. 22, 2020. Hydro’s Initial Compliance Report to DOJ is attached hereto at Attachment 6 and incorporated by reference as if restated in full.
2. Hydro USA is an indirectly wholly owned subsidiary of Norsk Hydro. Attachment 4 at 18 – Norsk Hydro 2022 Annual Report; Attachment 7 at 5 – Hydro USA’s Petition for Reinstatement Submission to EPA, dated July 1, 2022; Attachment 8 at 4 – Hydro USA’s Second Supplemental Submission to EPA, dated January 20, 2023. Hydro USA is a Delaware limited liability company having its principal place of business in Rosemont, Illinois; it has had the authority to conduct business within the State of Oregon since at least 2018. Attachment 2 at 1. Hydro USA operates 19 manufacturing facilities and has approximately 6,000 Employees in the United States. Attachment 5. Hydro USA is primarily responsible for implementing a compliance program at its facilities, although it must implement requirements set out by global governance documents and procedures developed by Norsk Hydro. Attachment 23 at 6 – Code of Governance, updated Sept. 10, 2020. These global governance documents and procedures set out mandatory requirements applicable to Norsk Hydro and its fully owned subsidiaries (including Hydro USA) and all employees worldwide. *Id.*
3. Hydro USA operates a secondary aluminum processing facility in The Dalles, Oregon (“The Dalles Facility”) that melted aluminum scrap (generally referred to as “charge”) in induction furnaces to produce reusable aluminum, generally in the form of logs or billets. Attachment 3 at 2. In 2015, Sapa Extrusions Inc. (“Sapa”), the predecessor to Hydro USA, acquired The

¹ Recently, the title of Norsk Hydro’s Head of Group Compliance position was changed to Norsk Hydro’s Chief Compliance Officer. The roles and responsibilities of this position remain the same as prior to the title change.

Dalles Facility from Northwest Aluminum Specialties, Inc. Attachment 9 – Press Release, “Sapa Acquires Aluminum Casting Plant Enhancing Its Capabilities in the Pacific Northwest,” September 22, 2015. In 2017, Hydro USA acquired Sapa, which included the acquisition of The Dalles Facility. Attachment 10 – Press Release, “[Norsk Hydro: Hydro USA] acquires Sapa to create a global aluminum champion,” dated July 10, 2017.

Summary of Misconduct

4. At all relevant times, The Dalles Facility was subject to National Emissions Standards for Hazardous Air Pollutants for Secondary Aluminum Production (i.e., NESHAP RRR, 40 C.F.R. Part 63, Subpart RRR) under the CAA and operated under a Title V air permit (“Permit”) issued by the Oregon Department of Environmental Quality (“ODEQ”), a program approved by the EPA. Attachment 3 at 2. The induction furnaces at The Dalles Facility were Group 2 furnaces pursuant to the NESHAP RRR, which, along with the Permit, required that only “clean charge” be melted in those furnaces. *Id.*
5. The induction furnaces were open to the interior of the building in which they were located and where Employees operated the furnaces; air emissions from those furnaces did not pass through any pollution control devices, and the building vented to the ambient air. *Id.*
6. From not later than July 2018 and continuing through June 2019, The Dalles Facility processed, among other materials, scrap denominated as 1070 aluminum alloy, as well as a blend containing 5000 and 6000 (or 5xxx and 6xxx) aluminum alloys from a third-party aluminum recycling company based in West Oakland, California (“Supplier”). These materials constitute the “Relevant Scrap.” Attachment 3 at 2-3.
7. Although The Dalles Facility’s purchase orders with the Supplier generally specified that the scrap to be received by The Dalles Facility must be clean charge, a mineral oil-based mixture had been used on some of the Relevant Scrap, and, therefore, it was not clean charge. Attachment 3 at 3. Mineral oil, when combusted in an induction furnace, can create smoke containing 2,3,7,8-Tetrachlorodibenzo-p-dioxin and/or polycyclic organic matter, each a hazardous air pollutant. *Id.*
8. From July 2018 through June 2019, The Dalles Facility failed to identify mineral oil on the Relevant Scrap and repeatedly melted the unclean charge in its Group 2 induction furnaces, in violation of its Permit. *Id.* During this period, Employees noticed that the Relevant Scrap was, at times, causing excessive smoke within The Dalles Facility. *Id.*
9. Although The Dalles Facility began mixing the Relevant Scrap with clean scrap, it continued to melt the Relevant Scrap and failed to sufficiently investigate the source of the smoking or to determine that the Relevant Scrap was, in fact, unclean. *Id.* Indeed, even after being told by EPA and ODEQ inspectors that the charge they were using was not clean and thus in violation of The Dalles Facility’s Permit, The Dalles Facility continued to melt the unclean charge. *Id.*

10. In failing to identify the Relevant Scrap as being unclean due to the mineral oil content and continuing to melt scrap that resulted in excessive smoking, The Dalles Facility negligently released a hazardous air pollutant to the ambient air. *Id.* In so doing, The Dalles Facility negligently placed individuals in imminent danger of death or serious bodily injury at times during the period from July 2018 through June 2019. *Id.*
11. Hydro USA realized cost savings of approximately \$466,071 by purchasing the Relevant Scrap from the Supplier rather than purchasing clean scrap at market prices. *Id.*

Clean Air Act Conviction

12. On August 23, 2022, the U.S. Attorney’s Office for the District of Oregon (“USAO”) filed an Information in the District Court charging Hydro USA with one count of negligently releasing a hazardous air pollutant into the ambient air, thereby negligently placing another person in imminent danger of death or serious bodily injury, in violation of the CAA, 42 U.S.C. § 7413(c)(4).
13. On January 24, 2023, the USAO filed a Plea Agreement in the District Court. Hydro USA agreed to plead guilty to the Information charging Hydro USA with one count of negligent endangerment by discharge of a hazardous pollutant, in violation of the CAA, 42 U.S.C. § 7413(c)(4).
14. On December 11, 2023, the District Court imposed a judgment on Hydro USA for one count of negligent endangerment by discharge of a hazardous pollutant, in violation of the CAA, 42 U.S.C. § 7413(c)(4).

Other Administrative Matter

15. On January 8, 2020, the ODEQ issued a Notice of Civil Penalty Assessment and Order No. AQ/V-ER-2019-199 (“Notice”) to Hydro USA. Attachment 11 at 1 – Mutual Agreement and Final Order, *In re Hydro Extrusion USA, LLC*, Case No. AQ/V-ER-2019-199 (Or. Env’t Quality Comm’n, May 13, 2021). On May 13, 2021, Hydro USA entered into a Mutual Agreement and Final Order (“MAO”) with the ODEQ to resolve the alleged violations described in the Notice. Attachment 11. The alleged violations included the misconduct at The Dalles Facility related to Hydro USA’s violation of its Permit through melting unclean scrap material, as discussed above. Attachment 11 at 3; *supra* ¶¶ 4-10. The MAO determined that Hydro USA did not comply with the conditions of its Permit, including failing to:
 - a. conduct pre-charge monitoring by visually inspecting each batch of aluminum scrap prior to charging The Dalles Facility’s induction furnaces;
 - b. inspect each delivery of scrap material to ensure that only clean aluminum scrap was accepted by The Dalles Facility; and

- c. conduct scrap inspection training for those individuals responsible for scrap acceptance, as well as those responsible for charging furnaces on at least an annual basis between May 1, 2018 and April 30, 2019.

Attachment 11 at 3-5.

Statement of Conditions Giving Rise to the CAA Conviction

16. The technical conditions giving rise to the aforementioned CAA conviction included the factors discussed above in ¶¶ 4-11, 15. The non-technical conditions that gave rise to the CAA conviction consisted of Hydro USA's failure to establish, maintain, and manage an effective, standardized, organization-wide ethics and compliance program which would have:
 - a. identified compliance issues;
 - b. timely addressed compliance issues such as preventing managerial and Employee decisions to melt the unclean scrap;
 - c. ensured Employees had the requisite knowledge and skills to act in their roles;
 - d. provided training to Employees to ensure understanding of and compliance with relevant laws and regulations;
 - e. reinforced Employee use of reporting mechanisms such as Hydro USA's compliance hotline;
 - f. prevented prioritization of production over compliance; and
 - g. enabled effective corporate oversight and maintenance of Hydro USA's compliance with all legal, regulatory, and permitting obligations throughout all of Hydro USA's operations, facilities, and subsidiaries.

Remedial Measures at The Dalles Facility Addressing the Misconduct That Led to the CAA Conviction

17. After the ODEQ sent a written pre-enforcement notice, The Dalles Facility stopped processing the Relevant Scrap. Attachment 12 – Email from ODEQ to EPA, dated October 28, 2022; Attachment 13 – ODEQ's Pre-Enforcement Notice, No. 2019-PEN-4642, issued on June 10, 2019; Attachment 14 at 5 – Hydro USA's Supplemental Submission to EPA, dated October 28, 2022. In addition, Hydro USA hired an environmental consultant to conduct a third-party audit of The Dalles Facility. Attachment 12. Upon discovering further potential violations involving both air and water quality, Hydro USA self-reported to ODEQ. Attachment 7 at 17; Attachment 12. The additional potential air quality issues were resolved through the MAO discussed above. Attachment 11. Hydro USA also entered into a second MAO with ODEQ to address the water quality issues. Attachment 15 – Mutual Agreement

and Final Order, *In re Hydro Extrusion USA, LLC*, Case No. WQ/I-ER-2019-250 (Or. Env't Quality Comm'n, June 24, 2021).

- 18.** The MAO to resolve air quality issues required Hydro USA take the following remedial actions, which it has completed, to:
- a. implement a fugitive dust control plan;
 - b. resubmit to ODEQ (with a copy to EPA) updated compliance certifications for periods of 2018 through 2020;
 - c. update its Operation, Maintenance, and Monitoring (“OM&M”) Plan, which was reviewed and approved by the ODEQ;
 - d. update its Site-Specific Monitoring Plan (“SSMP”), which was reviewed and approved by the ODEQ;
 - e. create a Particulate Matter (“PM”) Monitoring Plan to operate continuous PM monitors inside The Dalles Facility to measure PM, which was reviewed and approved by the ODEQ; and
 - f. file with ODEQ, within thirty (30) days of ODEQ’s approval of the PM Monitoring Plan, an administratively complete permit application or an amendment to a permit application on file with ODEQ, to incorporate into its Permit the PM Monitoring Plan.

Attachment 11 at 25-28; Attachment 16 – Email from ODEQ to EPA, dated Mar. 28, 2023.

- 19.** The MAO also required Hydro USA’s compliance with a third-party audit, as attached at Attachment A to the MAO, which was completed on July 19, 2023. Attachment 16. In addition, pursuant to the MAO, Hydro USA is scheduled to complete a Supplemental Environmental Project at the end of 2023.

- 20.** As part of its updated SSMP, Hydro USA is required to:
- a. maintain a scrap inspection program to include inspection of each load of scrap received by The Dalles Facility, pre-charge monitoring, and scrap inspector training;
 - b. retain purchase orders for external aluminum scrap processed at The Dalles Facility; and
 - c. include a complete list of all suppliers of external aluminum scrap processed at The Dalles Facility along with associated supplier qualifying documentation (e.g., Supplier Qualifying Report); the list must be maintained by Hydro USA and submitted to ODEQ as an update to the SSMP within thirty (30) days of processing scrap from a new supplier of external aluminum scrap.

Attachment 11 at 26.

- 21.** After the misconduct, from September 2019 to October 2020, Hydro USA re-trained Employees at The Dalles Facility on scrap inspection. Attachment 8 at 21. From September 2019 to November 2020, the Health, Safety, and Environment (“HSE”) Manager conducted regular scrap inspection audits at The Dalles Facility to monitor compliance and Employee understanding of the scrap inspection process following retraining. *Id.* Hydro USA continues to provide updated scrap inspection training to new Employees and annual training to casthouse Employees. Attachment 8 at 20-21, 24; Attachment 14 at 6, 11. At The Dalles Facility, Hydro USA conducted periodic internal audits of scrap inspections which occurred at least monthly in 2021 and 2022. Attachment 14 at 6. In addition, as part of its scrap inspection program, Hydro USA implemented a scrap supplier qualifying program through which Hydro USA evaluates each supplier of scrap to determine if the scrap meets the definition of clean charge. Attachment 11 at 26; Attachment 14 at 6. Further, Hydro USA is implementing a scrap inspection management tool that allows scrap inspectors to enter information into an electronic template on an iPad and document the cleanliness status of the scrap. Attachment 14 at 10. The tool will connect to an automated dashboard and will allow anyone in Hydro USA’s corporate Central Environmental Group to review the details of the scrap inspection process occurring at The Dalles Facility. *Id.*; Attachment 8 at 6.
- 22.** Hydro USA also removed the Plant Manager who managed The Dalles Facility at the time of the misconduct and hired a new Plant Manager with decades of experience in the aluminum manufacturing industry to oversee The Dalles Facility. Attachment 7 at 12-13; Attachment 8 at 23; Attachment 14 at 8; Attachment 17 at 19 – Hydro USA’s Third Supplemental Submission to EPA, dated Mar. 7, 2023. In addition, Hydro USA took disciplinary action against other Employees, as appropriate. Attachment 8 at 20-21; Attachment 17 at 28. Hydro USA also provided additional appropriate training and support to The Dalles Facility’s HSE Manager so he can fully perform his responsibilities. Attachment 8 at 24; Attachment 17 at 25. Further, Hydro USA created and staffed a new HSE Coordinator position to support the HSE Manager. Attachment 8 at 24-25; Attachment 17 at 25.
- 23.** In addition to providing scrap refresher training, Hydro USA provided and continues to provide further environmental compliance training, with specialized training for certain personnel with key functions. Attachment 14 at 8; Attachment 17 at 23-24.
- 24.** Hydro USA also implemented the usage of an interactive regulatory compliance calendar at The Dalles Facility, which provides the plant a central location to track compliance tasks, completed daily, monthly, quarterly, and semiannually, and ongoing maintenance tasks. Attachment 8 at 20; Attachment 17 at 20. All actions required by The Dalles Facility’s environmental permits, as well as its operations, monitoring, and maintenance requirements, are documented into a compliance calendar that Facility personnel review daily to help ensure that The Dalles Facility stays ahead of testing and other requirements, and meets deadlines on a timely basis. Attachment 8 at 20. Hydro USA uses Intalex as a central web-based compliance software that provides modules for creating a fully integrated system for HSE management.

25. In 2020, Hydro USA developed an environmental Walk/Observe/Communicate program which is led by The Dalles Facility's Plant Manager. Attachment 8 at 21. Each week, a member of The Dalles Facility leadership team (or a designee) must complete the form. *Id.* The information on the form is then communicated during a daily management meeting and documented in Hydro USA's electronic management system. *Id.*
26. Supervisors are responsible for filling out shift reports after each shift at Hydro USA's facilities, where appropriate, including The Dalles Facility. Attachment 8 at 20; Attachment 17 at 8. At The Dalles Facility, all leadership are required to complete a shift report at the end of each shift. Attachment 17 at 22. Shift reports are submitted by email to all leadership team members, other supervisors, and the Plant Manager. Attachment 8 at 20-21. A section of the shift report is dedicated to environmental compliance. *Id.* The shift reports add accountability because multiple Employees are responsible for reviewing shift reports, which increases visibility into potential future misconduct. *Id.*
27. Finally, Hydro USA is implementing a capital improvement project to add enhanced pollution controls to and change the designation of its furnaces, and Hydro USA has shared information about this project and its proposal for related permit modifications with ODEQ. Attachment 7 at 12; Attachment 14 at 7. The project will give The Dalles Facility greater operational flexibility to use other materials (such as unclean charge) and will ultimately provide greater pollution control. Attachment 14 at 7. This project alone will prevent the misconduct from recurring again because, following completion of the project and associated permitting, The Dalles Facility will be permitted to melt unclean charge. *Id.*

Submissions to EPA

28. On July 1, 2022, Hydro USA, through counsel, submitted a reinstatement petition to EPA. The July 1, 2022 submission and its attachments are attached hereto as Attachment 7 and incorporated by reference as if restated in full. On October 28, 2022, Hydro USA, through counsel, made a supplemental submission to the EPA. The supplemental submission and its attachments are attached hereto as Attachment 14 and incorporated by reference as if restated in full. On January 20, 2023, Hydro USA, through counsel, made a second supplemental submission to the EPA. The second supplemental submission and its attachments are attached hereto as Attachment 8 and incorporated by reference as if restated in full. On March 7, 2023, Hydro USA, through counsel, made a third supplemental submission to the EPA. The third supplemental submission and its attachments are attached hereto as Attachment 17 and incorporated by reference as if restated in full. On April 4, 2023, Hydro USA, through counsel, made a fourth supplemental submission to the EPA. The fourth supplemental submission and its attachments are attached hereto as Attachment 41 and incorporated by reference as if restated in full.

State Agency Input

29. On October 28, 2022, the ODEQ confirmed that the technical conditions that led to the violations had been corrected. Attachment 12.

NOW WHEREFORE, Respondents,

Recognizing that the CAA conviction described above presents grounds for suspension and debarment as it raises issues concerning Respondents' present responsibility to be a Government contractor, contractor under a Government assistance agreement, or assistance participant;

understanding the mutual benefit of demonstrating Respondents' business integrity;

ensuring the integrity of procurement and assistance programs of the EPA and other federal agencies; and

resolving issues of discretionary suspension, debarment, and statutory disqualification pursuant to 48 CFR Subpart 9.4, 2 C.F.R. Parts 180 and 1532, and the CAA;

agree as follows:

IV. TERMS AND CONDITIONS

1. COMPLIANCE WITH TERMS OF MAO, PLEA AGREEMENT, AND JUDGMENT.

Hydro USA shall comply with all terms and conditions of the MAO, *In the Matter of Hydro Extrusion USA, LLC*, Case No. AQ/V-ER-2019-199. Hydro USA shall also comply with all the terms and conditions of the Plea Agreement and Judgment filed in the District Court in the matter of *United States v. Hydro Extrusion USA, LLC*, No. 3:22-CR-00299-MO (D. Or.). The MAO, Plea Agreement, and Judgment are attached hereto as Attachments 11, 3, and 1, respectively, and are incorporated by reference as if restated in full.

- A. Review for Breach.** Any violation of the terms or conditions of the MAO, Plea Agreement, or Judgment that causes ODEQ, U.S. Department of Justice ("U.S. DOJ"), USAO, or the District Court to take enforcement action may be reviewed by the EPA Suspension and Debarment Division ("SDD") and Suspension and Debarment Official ("SDO") to determine whether such violation constitutes a violation of a material provision of this Agreement and a breach of this Agreement.
- B. Notification.** Hydro USA shall notify the EPA Authorized Representative and the independent monitor as outlined in IV.21 (the "Independent Monitor") of any violation or failure to comply with the terms or conditions of the MAO, Plea Agreement, or Judgment within ten (10) days of discovery of such violation or compliance failure by a Principal of Hydro USA.
- C. Documentation.** Hydro USA, through its Annual Reports under IV.22, shall provide the EPA Authorized Representative and the Independent Monitor:
- a.** a copy of any document Hydro USA is required to submit to the ODEQ under the MAO (Attachment 11); and

- b. a copy of any document Hydro USA is required to submit to any part of the U.S. government (e.g., U.S. DOJ, USAO, U.S. Probation Office, U.S. EPA, etc.) pursuant to the Plea Agreement or Judgment (Attachment 1 and Attachment 3);

- 2. **COMPLIANCE WITH OTHER AGREEMENTS.** Hydro USA shall comply with all terms and conditions of any active agreement, to which it is a party, to resolve a state or federal criminal, civil, or administrative matter (e.g., Mutual Agreement and Final Order, Consent Agreement and Final Order, Administrative Order, Consent Decree, etc.) during the term of this Agreement. Hydro USA shall notify the EPA Authorized Representative and Independent Monitor within ten (10) days after finalizing such an agreement. Hydro USA shall provide the EPA Authorized Representative and Independent Monitor a copy of any such agreement at the time of notification and it shall be deemed incorporated into this Agreement upon receipt by EPA. One such agreement that is active as of the date of endorsement of this Agreement is attached as Attachment 18 and incorporated into this Agreement by reference.
 - A. **Compliance Summary.** Hydro USA shall provide a brief summary in each Annual Report describing its efforts to comply with each agreement to resolve a state or federal criminal, civil, or administrative matter that has been incorporated into this Agreement, during the period of time covered by the report.
 - B. **Documentation.** Hydro USA, through its Annual Reports under IV.22, shall provide the EPA Authorized Representative and the Independent Monitor a copy of any documentation (e.g., Annual Report, Work Plan, Semiannual Report, Quarterly Report, Action Plan, Audit Report, etc.) Hydro USA is required to submit to any part of the U.S. government (e.g., U.S. DOJ, USAO, U.S. Probation Office, EPA, etc.) or to an employee, representative, or agency of any state government, pursuant to the terms and conditions of any incorporated agreement.
 - C. **Notification of Violation.** Hydro USA shall notify the EPA Authorized Representative and the Independent Monitor of any violation of the terms or conditions of an agreement to resolve a state or federal criminal, civil, or administrative matter that has been incorporated into this Agreement, within ten (10) days of a Principal of Hydro USA receiving notification from the relevant state or federal authority of such violation or compliance failure.
 - D. **Review for Breach.** Any material violation of the terms or conditions of an agreement to resolve a state or federal criminal, civil, or administrative matter that has been incorporated into this Agreement may be reviewed by the EPA SDD and SDO to determine whether such violation rises to the level of a breach of this Agreement.

- 3. **ETHICS AND COMPLIANCE PROGRAM.** During the term of this Agreement, Hydro USA shall maintain a comprehensive ethics and compliance program applicable to all of Hydro USA's operations, facilities, subsidiaries, and Employees. The ethics and compliance program shall be designed to promote an organizational culture within Hydro USA that encourages ethical conduct and compliance by all Employees; effectively identifies and

addresses all applicable ethics and compliance issues, including ensuring accurate collection, tracking, and reporting of data submitted to governmental entities; and effectively prevents and detects violations of applicable laws, statutes, regulations, permits, agreements, orders, and internal manuals, policies, and procedures. Hydro USA shall ensure that the ethics and compliance program includes, but is not limited to, the following elements: Code of Conduct; Whistleblower System including a hotline, options for anonymous reports by Employees and third-parties, Non-Retaliation Policy, and a system for documenting, tracking, and investigating all reports; comprehensive training; auditing; risk management; and policies and procedures reasonably necessary to establish, define, enforce, manage, and promote each element of the ethics and compliance program.

Hydro USA shall maintain its ethics and compliance program in a manner designed to ensure the program is fully integrated and standardized throughout Hydro USA's operations, facilities, and subsidiaries. Pursuant to Norsk Hydro's Code of Governance, attached herein as Attachment 23, Hydro USA shall implement its ethics and compliance program throughout its organization in a manner that complies and is aligned, where applicable, with Norsk Hydro's global governance documents and procedures (or substantially similar replacement documents) including, but not limited to: Health, Safety, Security, Environment Global Directive (attached hereto as Attachment 19); HSE Management System Audit Global Procedure (attached hereto as Attachment 20); HSE Risk Management Global Procedure (attached hereto as Attachment 21); HSE Incident Management Global Procedure (attached hereto as Attachment 22); Code of Governance (attached hereto as Attachment 23); Compliance System for Managing Compliance Risks Global Procedure (attached hereto as Attachment 24); Alert Case Management Global Procedure (attached hereto as Attachment 25); Integrity Risk Management of Agents and Intermediaries Global Procedure (attached hereto as Attachment 26); Integrity Risk Management of Hydro's Business Partners Global Procedure (attached hereto as Attachment 27); Training, Awareness, and Competence Global Procedure (attached hereto as Attachment 28); Enterprise Risk Management Global Directive (attached hereto as Attachment 29); Internal Board Mandate (attached hereto as Attachment 30); Audit Committee Mandate (attached hereto as Attachment 31); Review Committee Mandate (attached hereto as Attachment 32); Group Internal Audit and Investigation Charter (attached hereto as Attachment 33); Internal Investigation Global Procedure (attached hereto as Attachment 34); Management of Hydro USA's Governance Documents Global Procedure (attached hereto as Attachment 35); and Global Procedure Environment Management (attached hereto as Attachment 36). These documents attached hereto as Attachments 19 through 36 are incorporated by reference as if restated in full.

4. **CODE OF CONDUCT.** During the term of this Agreement, Norsk Hydro shall continue to maintain a Code of Conduct which establishes a baseline of principles and guidelines for the entire company globally and is applicable to Hydro USA Employees. The Code of Conduct shall continue to set responsibilities for Employees to understand Norsk Hydro's Code of Conduct and embrace Norsk Hydro's commitment to compliance and integrity, enforcing compliance requirements and avoiding violations; act in compliance with the Code of Conduct, other steering documents, work rules, and applicable laws and regulations; avoid any activity that might have the appearance of being unethical or illegal; promptly raise

questions and seek advice if unsure about the meaning of any part of the Code of Conduct or are confronted with an ethical question or issue; promptly raise concerns about suspected violations of the Code of Conduct, other steering documents, work rules or any law or regulation; cooperate with internal company investigations; never retaliate against anyone who raises a concern in good faith; participate in required compliance trainings; and speak up promptly about ethical issues and suspected violations. The Code of Conduct shall also continue to state that any violation of the Code of Conduct is not tolerated and may lead to severe consequences for Employees and for Norsk Hydro. The Code of Conduct shall continue to advise Employees that they may anonymously report any potential violations of the Code of Conduct, and other global governance documents and procedures, work rules, or any law or regulation, or a state or federal administrative action or agreement to the Hydro AlertLine or another reporting option. The Code of Conduct shall continue to state that Norsk Hydro will not tolerate retaliation against anyone who speaks up in good faith to ask a question, raises a concern, reports a suspected violation or participates in an internal company investigation. The Code of Conduct shall also continue to state that if an Employee suspects retaliation in the workplace, the Employee must promptly report it to the Hydro AlertLine or another reporting option.

Hydro USA and/or Norsk Hydro shall ensure any new or revised Code of Conduct is at least as comprehensive as Norsk Hydro's current Code of Conduct. Within sixty (60) days of the effective date of any materially new or revised Code of Conduct, Hydro USA shall provide training to all Hydro USA Employees on any materially new or revised Code of Conduct. Hydro USA shall ensure that the EPA and the Independent Monitor have a copy of the latest version of the Code of Conduct by submitting to the EPA Authorized Representative and the Independent Monitor any new or revised Code of Conduct as an attachment to the Annual Report covering the period in which the revised Code of Conduct was adopted. The current version of the Norsk Hydro Code of Conduct is attached hereto as Attachment 37 and incorporated by reference as if restated in full.

A. Review and Training. Hydro USA shall provide training on the Code of Conduct annually for all salaried Employees and biennially for hourly Employees, as described in Attachment 17 at 13-14. Hydro USA shall also require all Employees (annually for salaried Employees and biennially for hourly Employees) review the Code of Conduct and sign an acknowledgment certifying that they reviewed and understood the latest version of the Code of Conduct within the past year. In addition, Hydro USA shall provide training on the Code of Conduct to all new Employees within thirty (30) days of their employment with Hydro USA. Hydro USA shall require new Employees sign an acknowledgment certifying that they reviewed the latest version of the Code of Conduct within thirty (30) days of their employment with Hydro USA.

5. EMPLOYEE HANDBOOK. Hydro USA shall continue to maintain an Employee Handbook, which governs North American Employees, to reflect changes in applicable laws. The Employee Handbook shall continue to include a Non-Retaliation Policy prohibiting retaliation against any Employee that reports suspected violations of the Code of Conduct, global directive and procedure documents, work rules, or any law or regulation. Hydro USA shall review the Employee Handbook biennially to revise the Employee Handbook to ensure

the Employee Handbook is consistent with the most up-to-date laws and regulations. Hydro USA shall make the Employee Handbook accessible to every Employee through methods including, but not limited to, posting the Employee Handbook on Hydro USA’s intranet site, and the payroll and benefits platform maintained by Hydro USA’s third-party payroll management provider. Hydro USA shall provide any new or revised Employee Handbook to the EPA Authorized Representative and the Independent Monitor as an attachment to the Annual Report covering the period in which the new or revised Employee Handbook was adopted. The current version of the Employee Handbook is attached hereto at Attachment 38 – Extrusion North America Employee Handbook, updated Mar. 2021, and is incorporated by reference as if restated in full.

- 6. COMPLIANCE FUNCTIONS.** Hydro USA shall continue to maintain the following compliance functions: Central Quality (also known as “Quality”); Compliance; Internal Audit; Legal; Central Environmental Group (“CEG”); Health, Safety, and Environmental (“HSE”); and Operational Excellence (“OPEX”)² throughout Hydro USA’s operations, facilities, and subsidiaries. If Hydro USA makes any substantive changes to these functions, Hydro USA shall provide a summary of such changes to the EPA Authorized Representative and Independent Monitor as an attachment to the Annual Report covering the period in which the change was made.
 - A. Senior Executive Oversight.** Hydro USA’s Vice President (“VP”) of Legal, VP of HSE and Quality, VP of Human Resources, VP of OPEX, and Risk Director shall continue to have responsibility for the implementation and oversight of the Code of Conduct, as well as its compliance policies and procedures, as described in Attachment 17 at 23-24. Hydro USA’s VP of Legal shall continue to directly report to the Group Legal Department at Norsk Hydro, and with respect to compliance matters, directly report to the Chief Compliance Officer of Norsk Hydro and with indirect reporting to the Hydro USA President. Hydro USA’s VP of Legal shall continue to liaise with the Group Internal Audit & Investigations Department. Hydro USA’s VP of HSE and Quality and VP of OPEX shall continue to directly report to Hydro USA’s President. Hydro USA’s VP of HSE and Quality shall continue to run the Quality team.
 - B. Corporate Ethics and Compliance Officer.** Norsk Hydro shall continue to maintain a Corporate Ethics and Compliance Officer (“CECO”) position with the overall responsibility for Norsk Hydro’s global ethics and compliance program design and maintenance, including at Hydro USA. The current CECO position at Norsk Hydro is the Norsk Hydro Vice President, Chief Compliance Officer. Norsk Hydro shall maintain direct reporting by the Chief Compliance Officer to the Norsk Hydro Board Audit Committee and Norsk Hydro Chief Executive Officer as well as an organizational reporting line to the Executive Vice President, Legal & Compliance.
- 7. ETHICS & INTEGRITY COMMITTEE.** Hydro USA shall continue to maintain the Ethics & Integrity Committee to focus on addressing ethics and compliance issues and

² As described in Attachments 6 – 8, Attachment 14, Attachment 17, Attachments 19 – 36, Hydro USA’s Second Annual Compliance Report to U.S. DOJ which is attached hereto at Attachment 39 and Hydro USA’s Third Annual Compliance Report to U.S. DOJ which is attached hereto at Attachment 40.

implementing ethics and compliance initiatives throughout Hydro USA’s operations, facilities, and subsidiaries, as described in Attachment 14 at 16 and Attachment 8 at 11. Hydro USA shall also continue to maintain its quarterly Ethics & Integrity Committee meetings designed to ensure that a coordinated, consistent, and strong compliance culture exists throughout Hydro USA’s operations, facilities, and subsidiaries. The meetings will include a review by the Ethics & Integrity Committee of compliance issues, whistleblower hotline reports, reports raised through other channels, status of internal investigations, new internal investigations, reviews, and audits, after which any findings are distributed to appropriate Hydro USA compliance functions. The Ethics & Integrity Committee will continue to be led by the Norsk Hydro Group Internal Audit & Investigations Department (“GIA&I”) and members will continue to be key leaders of the Hydro USA management team, Region Human Resources Managers, and the Hydro USA Legal Department. Hydro USA shall provide a summary of Ethics & Integrity Committee quarterly meeting discussions to the EPA Authorized Representative and Independent Monitor as an attachment to the Annual Report covering the period in which the quarterly meeting was held.

8. COMPREHENSIVE TRAINING POLICY, PROGRAM, AND TRACKING. Hydro USA shall maintain training policies, programs, and procedures which centralize annual training requirements as appropriate for all Employees. Hydro USA shall provide training to Employees which must include guidance that if any Employee believes they have not received the adequate training necessary to perform their duties in compliance with relevant laws, regulations, rules, and job safety requirements, the Employee should report this belief to the Employee’s supervisor’s/manager’s manager, union representative/safety representative, facility/location manager, any member of Human Resources, any member of Legal, any member of Compliance, any member of HSE, any member of Internal Audit, or the AlertLine, as described in the Code of Conduct. Hydro USA shall require Employees take training that includes, but is not limited to, training on the Code of Conduct as provided in Section IV ¶ 4(A) above; Non-Retaliation Policy; and targeted training on policies, laws, permits, and regulations relevant to each Employee’s duties and responsibilities, including plant manager compliance training sessions. No later than July 7, 2024, Hydro USA shall develop and implement a system to centralize tracking of each Employee’s training that is identified, developed, and facilitated by Hydro USA’s compliance functions — Legal, CEG, Quality, HSE, and OPEX, as described in Attachments 6-8, Attachment 14, Attachment 17, and Attachments 39–40 — whether identified, developed, and facilitated company-wide by Hydro USA or by Hydro USA’s individual facilities. The centralized tracking system both company-wide and facility-wide shall be designed to enable Employee awareness of their own annual training requirements. The tracking system shall be implemented through electronic format; however, for factory floor employees who do not have company computers and emails, the tracking system may be implemented via paper format or an alternative method.

A. Compliance Competition. Hydro USA’s Legal team shall continue to develop and annually implement a program applicable throughout Hydro USA’s operations, facilities, and to all Employees, designed to engage and incentivize Employees, and further enhance Hydro USA’s compliance culture, to complete Hydro USA’s e-learning training courses on time.

B. Tracking and Review. Hydro USA shall track and maintain a record of each Employee's completion of their required training. Hydro USA shall review its training policies and procedures on at least an annual basis and revise as appropriate. Hydro USA shall provide a summary of any substantive changes to its training policies and procedures in its Annual Reports to the EPA Authorized Representative and Independent Monitor. If Hydro USA adopts any materially new or revised training policies or procedures, Hydro USA shall provide the new or revised training policies or procedures to the EPA Authorized Representative and Independent Monitor as an attachment to the Annual Report covering the period in which the new or revised training policies or procedures were adopted.

9. COMMUNICATIONS REGARDING ETHICS & COMPLIANCE ISSUES. Hydro USA shall maintain a communications plan, to include communication from Hydro USA's senior leadership to set "the tone at the top" and other initiatives such as: Hydro USA's President continuing to discuss quality and compliance in monthly Employee calls and other Employee meetings; Hydro USA's Legal Department distributing quarterly compliance talking points to facility managers, available for discussion with all Employees, which address key topics, such as the whistleblower hotline and the Code of Conduct; Business Unit President reminding employees about AlertLine (or substantially similar replacement reporting system) and their "right to speak up"; compliance messages displayed on screens across Hydro USA's facilities; continued participation in the Compliance Network to facilitate collaboration, information sharing, and learning within compliance across Hydro USA intended to create a strong tone at the top of the importance of compliance; promoting AlertLine (or substantially similar replacement reporting system), and zero tolerance for retaliation in a quarterly newsletter mailed to employees' homes, on Hydro USA's internal social media communication tool, on Hydro USA's intranet site, in the annual Code of Conduct training, and through posters visible to employees in the plants; showing of a video by Human Resources to new employees during onboarding that highlights a "speak up" culture, commitment to compliance and ethics, and an overview of the AlertLine (or substantially similar replacement reporting system). The communication plan shall apply throughout Hydro USA's operations, facilities, and subsidiaries, and shall promote awareness of ethics and compliance topics and include communication activities to be undertaken, the status of such activities, the channel of communications, and the timing of such messaging and actions. Upon retention of an Independent Monitor, Hydro USA shall provide its current communications plan to the EPA Authorized Representative and Independent Monitor.

10. FORMAL ENVIRONMENTAL COMPLIANCE SYSTEM. No later than July 7, 2024, Hydro USA shall complete the formalization of its environmental compliance system ("ECS"), utilizing the roadmap that lays out which groups/functions have responsibility for each element of environmental compliance, as well as which groups/functions need to collaborate in each area, as provided for in Attachment 8 at 3 (citing Exhibit 23) and in compliance with Norsk Hydro's global governance documents and procedures (or substantially similar replacement documents), including but not limited to: the Health, Safety, Security, Environment Global Directive attached hereto as Attachment 19; HSE Management System Audit Global Procedure attached hereto as Attachment 20; HSE Risk

Management Global Procedure attached hereto as Attachment 21; and HSE Incident Management Global Procedure attached hereto as Attachment 22. The ECS shall include, but not be limited to, the following elements: commitment, leadership, and behavior; compliance assurance; emerging issues; crisis and incident management; contractor/third-party management; communication; change management; Employee development; strategic planning; and performance improvement. The objectives of the ECS shall include, but are not limited to:

- A. Defining Employees' environmental responsibilities clearly and practically, which is done primarily by incorporating environmental expectations into Employees' performance standards and job-specific training;
- B. Facilitating supervisor self-assessments (audits) of the various elements, processes, and tools of ECS as part of the continuous improvement process — to assure responsibilities are carried out; and
- C. Demonstrating that Hydro USA is meeting expectations for environmental compliance in maintaining compliance with all applicable federal, state, and local environmental laws, regulations, and permit requirements, as well as any active agreements, orders, and internal standards, manuals, policies, and procedures.

11. WHISTLEBLOWER SYSTEM. Hydro USA shall continue to maintain a whistleblower system, applicable throughout Hydro USA's operations, facilities, and subsidiaries, designed to discover potential violations of the Code of Conduct or other illegal or unethical behavior, consisting of, but not limited to, the following elements:

- A. **Employee Reporting Requirement.** Hydro USA shall continue to require Employees to, through their certification of completion of Code of Conduct review, agree to report any violations through the available reporting options. Hydro USA shall also continue to encourage all Employees to report any potential violations of the Code of Conduct, other global governance documents and procedures, work rules, or any law or regulation, or a state or federal administrative action or agreement, or a state or federal administrative action or agreement of which they become aware — whether these relate to the Employee, the Employee's direct reports, or others. Hydro USA shall continue to provide guidance to Employees that reports may be made to the Employee's supervisor's/manager's manager, union representative/safety representative, facility/location manager, any member of Human Resources, any member of Legal, any member of Compliance, any member of HSE, or any member of Internal Audit. Hydro USA shall also continue to provide guidance to each Employee that Employees may also report confidentially via the AlertLine (or a substantially similar replacement reporting system) or at <https://alertline.hydro.com/> (or replacement website address). In addition, Hydro USA shall provide guidance to Employees that they may report potential violations to the appropriate federal, state, and local regulatory agencies.
- B. **AlertLine.** Hydro USA shall continue to maintain the AlertLine and provide company-wide guidance, designed to encourage usage of the AlertLine, to Employees on usage of

the AlertLine and that the AlertLine allows Employees and external third parties to report concerns twenty-four (24) hours a day, seven (7) days a week in multiple languages via telephone (toll-free) or online on either an anonymous or identified basis. The AlertLine shall continue to be administered by an independent contractor and provide an anonymous reporting channel that is open twenty-four (24) hours a day, seven (7) days a week, and with reporting available in at least the primary business languages of each of Hydro USA's businesses. Hydro USA shall continue to widely publicize the AlertLine through methods that may include, but are not limited to, the following: revisions to the Code of Conduct that encourage its use, display of AlertLine posters at all facilities, a link to the AlertLine on the front page of both the intranet and internet sites, and discussion of the AlertLine in ethics and compliance trainings. The publicizing of the AlertLine should be made in the primary business languages at Hydro USA, as well as any other language necessary for all Employees to understand the information provided. Hydro USA shall regularly review and update the guidance as necessary. The current version of Hydro USA's AlertLine and Reporting Guidance is attached hereto at Attachment 42 and is incorporated by reference as if restated in full. Hydro USA shall ensure that the EPA and Independent Monitor has a copy of the latest version of the guidance document by submitting an updated version of the document to the EPA Authorized Representative and Independent Monitor as an attachment to the Annual Report covering the period in which the document was updated.

- C. Case Management System.** Hydro USA shall continue to utilize a case management system to manage compliance alerts. Hydro USA shall maintain its case management system in compliance with the Alert Case Management Global Procedure attached hereto as Attachment 25 (or a substantially similar replacement case management system).
- D. Benchmarking and Trend Analysis.** On an annual basis, Hydro USA shall continue third-party benchmarking of the AlertLine reports, as described in Attachment 8. Hydro USA shall utilize the benchmarking of the AlertLine reports to conduct trend analysis and identify systemic risks and opportunities for improvement. The Ethics & Integrity Committee shall continue to review the benchmarking for the trend analysis and identify systemic risks and opportunities for improvement. Hydro USA shall provide a report summarizing the results of its benchmarking, trend analysis, identification of systemic risks, opportunities for improvement, and mitigating actions to address the risks and improvements to the EPA Authorized Representative and Independent Monitor as an attachment to the Annual Report covering the period in which the benchmarking and trend analysis was conducted.
- E. Investigations and Internal Audit Staffing.** Norsk Hydro shall continue to maintain the Norsk Hydro Group Internal Audit & Investigations Department ("GIA&I") and the Review Committee or substantially similar replacement functions. The GIA&I shall maintain direct reporting to the Norsk Hydro Board Audit Committee. Hydro USA shall maintain an independent Investigator/Internal Auditor – North America position or substantially similar replacement position to review and oversee the administration and investigation of all whistleblower concerns. This position shall continue to have the authority to direct additional investigation and to seek additional guidance from the

Hydro USA Legal team and external resources. The Investigator/Internal Auditor – North America shall maintain direct reporting to the GIA&I, and the GIA&I shall continue to chair the Ethics and Integrity Committee meetings. Norsk Hydro and Hydro USA shall also continue to retain staff and provide resources to review and assist with AlertLine investigations.

- F. Global Procedure Internal Investigation Procedure.** Norsk Hydro shall continue to maintain, and update as necessary, its Global Procedure Internal Investigation Procedure document (or substantially similar replacement procedure document), attached hereto as Attachment 34, which requires that all reported concerns or allegations about unwanted, unethical, or illegal behavior, including suspected violations of Norsk Hydro’s global governance documents and procedures, are taken seriously and handled fairly with objectivity and professional discretion. Hydro USA shall adhere to the Global Procedure Internal Investigation Procedure (or substantially similar replacement procedure) in conducting internal investigations. Hydro USA shall continue to follow a transparent process to timely investigate and, when necessary, disclose violations of internal policies or applicable laws. Hydro USA shall also continue to investigate any potential violation on a case-by-case basis with results such as Employee discipline (including termination), further Employee training, and/or disclosure of the incident to the relevant enforcement authority, depending on the circumstances. Hydro USA shall ensure that EPA and the Independent Monitor have a copy of the latest version of the Global Procedure Internal Investigation Procedure document (or substantially similar replacement procedure document) by submitting the revised Global Procedure Internal Investigation Procedure document or replacement procedure document to the EPA Authorized Representative and Independent Monitor as an attachment to the Annual Report covering the period in which the procedure was revised or replaced.
- G. Disciplinary Action for Failure to Report.** No later than July 7, 2024, Hydro USA shall implement a policy that includes a statement that failure to report violations or potential violations of applicable laws, regulations, Hydro USA’s compliance policies, and Norsk Hydro governance documents (including the Code of Conduct) applicable to each Employee’s role, will result in disciplinary action of the offending Employee, up to and including dismissal.
- H. Non-Retaliation Policy.** Hydro USA shall continue to maintain a Code of Conduct and Employee Handbook that includes a non-retaliation policy prohibiting retaliation against any Employee that reports potential violations of the Code of Conduct, other global governance documents and procedures, work rules, any law or regulation, or a state or federal administrative action or agreement. Hydro USA shall review its non-retaliation policy on at least a biennial basis and revise as appropriate. Hydro USA shall continue to actively promote the non-retaliation policy company-wide, as described in Attachment 17. If Hydro USA revises and adopts a new or revised non-retaliation policy, Hydro USA shall provide training to all Hydro USA Employees on the new or revised non-retaliation policy within ninety (90) days after the policy’s effective date. Hydro USA shall provide a summary of any changes to the non-retaliation policy to the EPA Authorized Representative and Independent Monitor in the Annual Report covering the

period in which the changes were made. The current version of the Non-Retaliation Policy in the Code of Conduct and Employee Handbook attached hereto at Attachment 37 and Attachment 38, respectively. If Hydro USA adopts a new or revised non-retaliation policy, Hydro USA shall provide the new or revised non-retaliation policy to the EPA Authorized Representative and Independent Monitor as an attachment to the Annual Report covering the period in which the new or revised non-retaliation policy was adopted.

12. INCENTIVES AND DISCIPLINARY ACTIONS. Hydro USA shall, as part of its ethics and compliance program, develop and implement incentives and consequences to encourage Employees to engage in ethical and compliant behavior, including but not limited to:

- A. **Performance Appraisals.** No later than September 30, 2024, Hydro USA shall enhance Hydro USA’s performance appraisal system to include ethical behavior considerations, which shall be applicable to all Hydro USA Employees.
- B. **Star Spot Awards Program.** Hydro USA shall continue to use the Star Spot Awards program, as described in Attachment 8 at 17, to provide incentives for Employees to adhere to the Code of Conduct and ethical behavior, which shall be applicable to all Hydro USA Employees.
- C. **Monthly Recognition.** Hydro USA shall continue to highlight Employee accomplishments in its “Monthly Recognition” PowerPoint presentation (as described in Attachment 8) or a substantially similar replacement program.
- D. **People That Matter Campaign.** Norsk Hydro shall continue to implement a “Hydro People That Matter” or substantially similar campaign (as described in Attachment 8) to further incentivize Employees to adhere to the Code of Conduct and ethical behavior, which shall be applicable to all Hydro USA Employees.
- E. **Disciplinary Measures.** When Hydro USA identifies an Employee who is exhibiting behaviors that violate the Code of Conduct, other global governance documents and procedures, work rules, or any law or regulation, or a state or federal administrative action or agreement, Hydro USA shall continue to implement disciplinary measures including but not limited to, termination upon completion of an investigation, further Employee training, disclosure of the incident to relevant government authorities, or putting the Employee on a performance improvement plan.
- F. **Consistency and Awareness of Disciplinary Actions.** Hydro USA shall internally communicate, in a manner designed to ensure fair and consistent treatment throughout its operations, facilities, and subsidiaries regarding disciplinary action related to ethics and compliance violations, about relevant cases through raising any disciplinary actions in response to violations to Hydro USA’s Vice President of Legal and Vice President of Human Resources, as well as to the quarterly Ethics & Integrity Committee for discussion at its quarterly meetings. Where necessary, in order to comply with employment or privacy law, Hydro USA may anonymize, generalize, or redact case

information. Hydro USA shall provide a summary of these cases to the EPA Authorized Representative and Independent Monitor in the Annual Report covering the period in which the cases were raised to Hydro USA's Vice President of Legal and Vice President of Human Resources, as well as to the quarterly Ethics & Integrity Committee for discussion at its quarterly meetings.

- 13. EMPLOYEE SURVEY.** Norsk Hydro shall continue to conduct a biennial Employee culture survey (as described in Attachment 8 at 8-9, Attachment 17 at 30-31, and Attachment 39 at 9, 28) to assess Norsk Hydro's integrity culture (to include Hydro USA), the tone at the top within each Employee's department, the tone from each Employee's leaders, Employees' comfort on speaking up, and organizational justice. In response to the results of each survey, Hydro USA shall develop an action plan that includes corrective actions and actions to continue developing a culture of compliance. Hydro USA shall provide the Hydro USA-specific survey results in a report, including areas needing improvement and the corrective action plans, to the EPA Authorized Representative and Independent Monitor as an attachment to the Annual Report covering the period in which the survey was conducted.
- 14. RISK MANAGEMENT.** Hydro USA shall continue to maintain its Risk Management function (as described in Attachment 6 at 5-8 and 13-14; Attachment 8 at 10, 12-14, 16; Attachment 14 at 12, 14-16; Attachment 17 at 7-8, 1-23, 30; and Attachment 39 at 6-9, 17-21, 25, 28) to annually review Hydro USA's compliance program as a whole to identify key risks and develop a plan to mitigate those risks, in compliance with Norsk Hydro's Enterprise Risk Management Global Directive attached hereto as Attachment 29 and Hydro USA's Risk Committee Charter attached hereto as Attachment 17 at Exhibit 3.25 (or substantially similar replacement directives and charters).

Hydro USA shall provide a summary of its activities and outcomes to comply with this term to the EPA Authorized Representative and Independent Monitor in the Annual Report covering the period in which the activities occurred.

- A. Staffing and Oversight.** Hydro USA shall continue to provide staffing and resources to Hydro USA's Risk Management function, including maintaining the position of Risk Director. The following shall continue to occur in the manner described in Attachment 8 at 10-11, 18 and Attachment 17 at Exhibit 3.25: Hydro USA's Risk Director shall continue to lead the Risk Committee, which shall continue to oversee annual risk assessments at Hydro USA's facilities to identify key risks and mitigation actions, communicate the key risks and mitigation measures as appropriate within Hydro USA, and monitor mitigating actions. Hydro USA shall also maintain an above-plant Risk Group comprised of a team of leaders who oversee key functions at Hydro USA, including Quality, HSE, Legal, Logistics, and Operations. The purpose of the Risk Group shall continue to be for each member to provide subject matter expertise to help identify and prioritize the compliance and business-related risks facing the organization within their respective areas.

B. Facility Risk Assessment. Each Hydro USA manufacturing facility shall annually conduct a risk assessment (as described in Attachment 8 at 10-11 and Attachment 17 at 4-5 and Exhibit 3.26) to identify key risks and mitigation actions and communicate the key risks and mitigation measures, as appropriate, through a standardized process with support from the Risk Director. Hydro USA's corporate Risk Management leadership function shall continue to hold virtual interactive compliance meetings (as described in Attachment 8 at 13, Attachment 14 at 12, and Attachment 40 at 4-5) with Hydro USA's facility managers and other key leaders to focus on Hydro USA's top compliance risk areas.

C. Risk Review Meetings. Hydro USA shall continue to conduct quarterly risk review meetings, in which key functional leaders of Hydro USA review the risks facing the business, including assessing legal and compliance risks annually. Hydro USA's Risk Director should continue to lead these meetings, and Hydro USA's legal department should continue to support the meetings as appropriate.

15. PERIODIC RISK ASSESSMENT. Norsk Hydro's GIA&I and Hydro USA's Legal, Quality, HSE, CEG, and Risk Management functions shall continue to conduct periodic risk-based reviews (as described in Attachment 6 at 5, 8, 13 and Attachment 8 at 10-11), including biennially reviewing and updating compliance policies and procedures applicable throughout Hydro USA's operations, facilities, and subsidiaries. This review shall continue to be informed by compliance alerts and the work by Hydro USA's Risk Management function. Hydro USA shall provide a summary of the results of each review and any material revisions or updates to Hydro USA's company-wide policies and procedures, including removal or replacement of the policies and procedures, to the EPA Authorized Representative and Independent Monitor in the Annual Report covering the period in which the review and/or updates were made.

A. Monitoring and Testing. Hydro USA's Legal, Central Quality, Central HSE, and Risk Management functions shall continue to conduct periodic risk-based reviews (as described in Attachment 8 at 10-11, 18-19) to monitor and test Hydro USA's compliance program. No later than August 7, 2024, each function shall provide its plan to conduct these reviews to the EPA Authorized Representative and Independent Monitor. Hydro USA shall provide each function's plan to conduct these reviews to the EPA Authorized Representative and Independent Monitor covering the period in which the plan was created. Hydro USA shall provide a summary of the results of each review and any corrective action taken to the EPA Authorized Representative and Independent Monitor in the Annual Report covering the period in which the review was conducted and/or corrective action was taken.

B. Internal Independent Audits. Norsk Hydro's GIA&I shall continue to conduct periodic risk-based reviews and annual independent risk-based internal audits (as described in Attachment 8 at 10-11, 18-19) at Hydro USA across all business units and processes to evaluate governance, risk management, and internal controls. GIA&I shall continue to create and implement an annual audit plan that is approved by Norsk Hydro's Board of Directors. Hydro USA shall provide a summary of the audit plan, as relevant to Hydro

USA, and results of the annual audit, as relevant to Hydro USA, to the EPA Authorized Representative and Independent Monitor in the Annual Report covering the period in which the audit plan was approved by Norsk Hydro's Board of Directors and/or each audit is completed.

16. TRAINING, AWARENESS, AND COMPETENCE. Pursuant to Norsk Hydro's Training, Awareness, and Competence Global Procedure, attached hereto as Attachment 28, no later than July 7, 2024, Hydro USA shall develop, implement, and maintain a process or procedure designed to ensure that all Employees with roles within the HSE management system have the required competencies to effectively perform the requirements of their roles. Hydro shall provide the process or procedure document to the EPA Authorized Representative and Independent Monitor as an attachment to the Annual Report covering the period during which the process or procedure is implemented.

A. New Employees. Hydro USA shall maintain its onboarding framework, New Employee Excellence in Safety & Performance ("NEXiS"), or a substantially similar framework, as described in Attachment 8 at 9, 14 and Attachment 17 at 9-11. The framework shall continue to focus on mentorship, on-the-job training, and management engagement, as described in Attachment 17. Hydro USA shall continue to require facilities to onboard all new Employees based on minimum NEXiS requirements, as described in Attachment 17. In addition, Hydro USA shall continue to follow a job safety analysis training process for new Employees, as described in Attachment 17. Further, Hydro USA shall continue to assign new Employees mentors as described in Attachment 8 at 9, 14 and Attachment 17 at 9-11. Hydro USA shall also continue to provide all new Employees training that highlights Hydro USA's "speak up" culture, its commitment to compliance and ethics, and an overview of the AlertLine, as described in Attachment 17. Finally, Hydro USA's Legal team shall continue to directly provide Legal and Compliance training to newly hired Human Resource Managers, who are facility-level Employees, as described in Attachment 8 at 14.

B. Current Employees in New Roles. No later than July 7, 2024, Hydro USA shall develop, implement, and maintain a process or procedure designed to ensure that when any Employee is transferred within the Hydro USA organization into a new role that requires any knowledge, skills, or abilities ("KSAs") different from what the Employee was performing previously, Hydro USA assesses the Employee's KSAs to perform the role effectively, identifies gaps in the Employee's KSAs, and provides training for the Employee to have the requisite KSAs to effectively perform the duties of the new role. Hydro shall provide the process or procedure document to the EPA Authorized Representative and Independent Monitor as an attachment to the Annual Report covering the period during which the process or procedure is implemented.

C. Performance Management. Hydro USA shall continue to utilize a performance management system to track Employee goals and give all Employees at least an annual performance review, as described in Attachment 17. Hydro USA shall also continue to require all Employees whose roles include HSE responsibilities, including managers,

directors, and regional leaders, to set performance goals based on HSE objectives, as described in Attachment 17.

- D. Certification.** Hydro USA shall continue to require its executive management team, facility managers, and sales directors each to execute a certification annually confirming, among other things, that they understand the compliance requirements relating to their area of responsibility and the importance of Hydro USA’s “speak up” culture so that compliance issues are promptly escalated, investigated, and addressed. In addition, these individuals shall confirm in the annual certification that their respective areas of responsibility are in compliance with applicable laws and internal policies.

17. STANDARDIZATION AT FACILITIES. No later than September 30, 2024, Hydro USA will complete an audit regarding standardization of business practices across all its Facilities, adhering to the Extrusion Business System, as described in Attachment 17. As part of the completion of the audit, Hydro USA shall design a process or procedure to ensure that all its Facilities are using standardized practices and processes, where appropriate, which may include, but are not limited to, use of the following tools: interactive regulatory compliance calendar, which should be integrated into an online system to create a fully integrated system for quality management, environmental management, and health and safety management, as described in Attachment 8 at 20 (citing Exhibits 151 and 152); Attachment 7 at 20 (citing Exhibit 19); Attachment 14 at 7 (citing Exhibit 20); Training Matrix as described in Attachment 17 at 10 (citing Exhibit 3.34); Weekly Environmental Walk-Observe-Communicate process as described in Attachment 8 at 21 (citing Exhibit 168); Attachment 7 at 19 (citing Exhibit 20); and the Walk-Observe-Communicate process, as described in Attachment 17 at 12, 30 (citing Exhibit 3.45); shift reports, as described in Attachment 8 at 21 (citing Exhibit 153) and Exhibit 153 and Attachment 17 at 8 (citing Exhibit 3.31); and use of CompliantPro or an alternative online system to have a fully integrated system for quality and environmental management as described in Attachment 6. Hydro shall provide the process or procedure document to the EPA Authorized Representative and Independent Monitor as an attachment to the Annual Report covering the period during which the process or procedure is implemented.

- A. Central Environmental Group.** The CEG shall continue to assess environmental compliance and provide environmental compliance support to all of Hydro USA’s facilities, as described in Attachment 17. Members of the CEG and each of Hydro USA’s facilities shall meet at least monthly to discuss the compliance calendar and upcoming environmental compliance requirements. These meetings shall focus on each facility’s weekly, monthly, quarterly, and annual environmental requirements related to compliance, maintenance, and reporting.

- B. Policies and Self-Assessments.** At each facility, Hydro USA shall continue usage of its HSE policies and environmental self-assessment and audit templates, or similar replacement documents, as attached hereto at Attachment 7 at Exhibits 5-18 and 21-26.

- C. Environmental Compliance Field Guide.** Hydro USA shall continue to deploy the Environmental Compliance Field Guide, attached hereto at Attachment 7 at Exhibit 27, to

educate shop Employees at all its facilities on identifying improvement opportunities for environmental compliance. Hydro USA shall biennially review the Environmental Compliance Field Guide and update it if necessary. Hydro USA shall ensure EPA and the Independent Monitor have the most up-to-date Environmental Compliance Field Guide by providing the updated Environmental Compliance Field Guide to the EPA Authorized Representative and Independent Monitor as an attachment to the Annual Report covering the period in which the Environmental Compliance Field Guide was updated.

- D. Signage.** Each facility shall continue to have signage emphasizing HSE compliance. The signage should be reviewed and updated to reflect each facility's HSE compliance requirements.
- E. Executive Management Team Engagement.** Hydro USA's executive management team shall continue to semiannually hold interactive compliance discussions with its facility managers and other key leaders to strengthen a culture of ethics and compliance among Employees. Hydro USA's executive management team shall also continue to personally hold facility manager compliance training sessions at least semiannually. The interactive compliance discussions may take place during the in-person facility manager compliance training sessions.
- F. Quarterly Compliance Talking Points.** On a quarterly basis, facility managers shall continue to hold meetings with facility Employees to discuss key compliance topics such as the whistleblower hotline and the Code of Conduct.

18. THE DALLES FACILITY. Hydro USA shall continue to implement at The Dalles Facility the remedial measures and enhancements as discussed above at Sections III ¶¶ 11- 27, as well as:

- A. Capital Improvement Project.** Hydro USA expects to complete implementation of its capital improvement project to add enhanced pollution controls to and change the designation of its furnaces, as described in Attachment 7, on or before March 1, 2024. Hydro USA shall continue to update the EPA Authorized Representative and the Independent Monitor in the Annual Report due after March 1, 2024, about the status of this project.
- B. Scrap Management Tool.** No later than July 7, 2024, Hydro USA will implement a more robust scrap management tool, as described in Section III ¶ 21 and Attachment 8, that allows scrap inspectors to enter information into an electronic template on an iPad and document the cleanliness status of the scrap. The tool shall connect to an automated online dashboard and allow anyone in the CEG to review the details of the scrap inspection process occurring at The Dalles Facility. In the event that ODEQ has not approved the new scrap management tool by June 7, 2024, the deadline under this Agreement shall be extended until thirty (30) days after receipt of ODEQ's approval pursuant to The Dalles' Title V air permit.

C. Compliance Calendar. Hydro USA shall continue to use its compliance calendar on Intellex or a substantially similar tool as a central web-based compliance software that provides modules for creating a fully integrated system for HSE management.

D. Daily Production Meetings. Management of The Dalles Facility shall hold daily production meetings to include discussions on compliance at its facility.

E. HSE Coordinator. No later than July 7, 2024, Hydro USA shall develop, implement, and maintain a training plan designed to ensure that The Dalles Facility's HSE Coordinator (or similar replacement role) receives the training necessary to effectively perform the duties of that role and support the HSE Manager. Hydro USA shall provide the training plan to the Environmental Coordinator to the EPA Authorized Representative and the Independent Monitor as an attachment to the Annual Report covering the period during which the training plan was implemented.

F. Audits. The Dalles Facility's HSE Manager shall conduct periodic internal audits of scrap inspections, pursuant to the audits conducted as described in Attachment 14 at 6. Hydro USA shall provide a summary of the results of these audits to the EPA Authorized Representative and Independent Monitor covering the period in which the audit was completed.

19. POLICY AND PROCEDURE INTEGRATION. No later than July 7, 2024, Hydro USA shall review Hydro USA's company-wide compliance policies and procedures and, where relevant, ensure Norsk Hydro's global governance documents and procedures, as appropriate, are fully integrated into policies and procedures applicable to Hydro USA's operations, facilities, and affiliates.

20. ETHICS AND COMPLIANCE PROGRAM ASSESSMENT. No later than thirty (30) days after the effective date of this Agreement, Hydro USA, at its sole expense, shall retain a qualified independent consultant ("Compliance Consultant"), who meets the qualifications provided herein, to assess whether Hydro USA's ethics and compliance program is designed to: promote an organizational culture within Hydro USA that encourages ethical conduct and compliance by all Employees; effectively identify and address all applicable ethics and compliance issues, including ensuring accurate collection, tracking, and reporting of data submitted to governmental entities; and effectively prevent and detect violations of applicable laws, statutes, regulations, permits, agreements, orders, and internal manuals, policies, and procedures. The minimum requirements for Hydro's ethics and compliance program are described in Section IV ¶ 3.

Hydro USA shall provide the EPA Authorized Representative with the Compliance Consultant's name, telephone number, email address, current position, resume, certification of independence, and a summary of the Compliance Consultant's qualifications no later than thirty (30) days after date Hydro USA retains the Compliance Consultant. If there is a change in the Compliance Consultant during the term of this Agreement, Hydro USA shall provide the EPA Authorized Representative with the new Compliance Consultant's name, telephone number, email address, current position, resume, and a summary of the new Compliance

Consultant's qualifications thirty (30) days after obtaining the services of the new Compliance Consultant or thirty (30) days after the prior Compliance Consultant's last day, whichever occurs earlier.

Hydro USA acknowledges that the contractual relationship is solely between the Compliance Consultant and Hydro USA, and that the Compliance Consultant shall have no contractual relationship with EPA.

- A. Qualifications.** Hydro USA is responsible for ensuring that the Compliance Consultant retained pursuant to this Agreement meets the qualifications below. Hydro USA's failure to retain the services of a Compliance Consultant who meets the qualifications identified below will be considered a material breach of this Agreement. The qualifications of the Compliance Consultant shall include the necessary education, training, expertise, and experience to assess whether Hydro USA's ethics and compliance program is designed to: promote an organizational culture within Hydro USA that encourages ethical conduct and compliance by all Employees; effectively identify and address all applicable ethics and compliance issues, including ensuring accurate collection, tracking, and reporting of data submitted to governmental entities; and effectively prevent and detect violations of applicable laws, statutes, regulations, permits, agreements, orders, and internal manuals, policies, and procedures., to include conclusions and recommendations to correct any deficiencies in Hydro USA's ethics and compliance program, and to perform the duties described herein.
- B. Nature of Employment.** Hydro USA shall retain the Compliance Consultant to conduct an independent assessment of whether Hydro USA's ethics and compliance program is designed to: promote an organizational culture within Hydro USA that encourages ethical conduct and compliance by all Employees; effectively identify and address all applicable ethics and compliance issues, including ensuring accurate collection, tracking, and reporting of data submitted to governmental entities; and effectively prevent and detect violations of applicable laws, statutes, regulations, permits, agreements, orders, and internal manuals, policies, and procedures. Hydro USA shall ensure that the Compliance Consultant is not an agent of Respondents or the EPA, and their work product developed pursuant to this Agreement is not subject to Respondents' assertion of the attorney-client or attorney work product privilege doctrines. Hydro USA shall ensure that the Compliance Consultant is an independent party who is appropriately qualified to perform the responsibilities discussed herein and who has had no previous business relationship with Respondents. Hydro USA shall require the Compliance Consultant to make available to the EPA and the Independent Monitor, upon EPA's and the Independent Monitor's request, information and supporting documentation related to the Compliance Consultant's performance under this Agreement. Hydro USA shall require the Compliance Consultant to provide the EPA and the Independent Monitor with the requested information and documentation within thirty (30) days of the EPA's request.

Hydro USA shall grant the Compliance Consultant the authority to employ personnel, with appropriate qualifications, that the Compliance Consultant believes are necessary to assist in the discharge of the Compliance Consultant's duties, as specified herein. Hydro

USA shall be responsible for providing reasonable compensation and expenses for any persons hired by the Compliance Consultant pursuant to this Agreement.

- C. Annual Affidavit Certifying Independence.** Hydro USA shall require the Compliance Consultant to provide an Affidavit to Hydro USA, upon initial selection of the Compliance Consultant, and annually on September 1, for the duration of the Compliance Consultant's tenure pursuant to this Agreement certifying that the Compliance Consultant has no financial, professional, personal, familial or other interest that would create an actual or apparent conflict of interest with Respondents, Respondents' Employees, other than that arising from the appointment as the Compliance Consultant. The Affidavit must also certify that their representation of any other client will not create an actual or apparent conflict of interest in fulfilling their responsibilities as Compliance Consultant. Hydro USA shall provide a copy of the Affidavit to the EPA and Independent Monitor at the time of providing initial notification to the EPA Authorized Representative of Hydro USA's selection of the Compliance Consultant and, annually, as an attachment to each Annual Report to the EPA and Independent Monitor for each Annual Report due for the duration of the Compliance Consultant's tenure pursuant to this Agreement.
- D. Work Plan.** Hydro USA shall require the Compliance Consultant to review this Agreement, its attachments, and any other documentation Hydro USA or the Compliance Consultant believes necessary, in order to develop a work plan to be performed by the Compliance Consultant, in accordance with the scope and provisions of this Agreement, as soon as possible, but no later than ninety (90) days after retaining the services of the Compliance Consultant. Hydro USA shall provide the EPA Authorized Representative and the Independent Monitor with a copy of the Compliance Consultant's work plan and methodology for developing the work plan no later than one hundred and twenty (120) days after the effective date of this Agreement. Hydro USA shall facilitate the Compliance Consultant's effort to develop a work plan by providing the Compliance Consultant, as needed, access to Hydro USA's primary business office and facilities, and Hydro USA's subsidiaries' primary business offices and facilities located in the United States, documentation not subject to attorney-client or attorney work product privilege doctrines, electronic systems, and Employees, excluding Employees' personal data where appropriate. Hydro USA shall specifically require the Compliance Consultant to review this Agreement; any documentation related to, referred to, or submitted pursuant to this Agreement; manuals, policies, and procedures related to Hydro USA's existing ethics and compliance functions; audits, evaluations, or reports issued within the previous three (3) years that are related to Hydro USA's ethics or compliance functions; and any other documentation the Hydro USA or Compliance Consultant believes necessary to be fully informed about Hydro USA's existing ethics and compliance program. Hydro USA shall require the Compliance Consultant to identify, with reasonable specificity in the work plan, the Compliance Consultant's anticipated activities and focus areas for review over the term of this Agreement.
- E. Access to Information.** Hydro USA shall cooperate fully with the Compliance Consultant throughout the term of this Agreement, which includes providing the Compliance Consultant with access, as needed, to Hydro USA's facilities and primary

business office, documentation not subject to attorney-client or attorney work product privilege doctrines, electronic systems, and Employees. Additionally, Hydro USA shall provide the Compliance Consultant a copy of any document Hydro USA submits to EPA and Independent Monitor pursuant to this Agreement, and Hydro USA shall provide the Compliance Consultant with access to third-party consultants, auditors, and monitors that provide services related to Hydro USA's ethics or compliance functions, or otherwise provide services related to matters within the scope of this Agreement.

F. Assessment and Report. The Compliance Consultant shall conduct an assessment of whether Hydro USA's ethics and compliance program is designed to: promote an organizational culture within Hydro USA that encourages ethical conduct and compliance by all Employees; effectively identify and address all applicable ethics and compliance issues, including ensuring accurate collection, tracking, and reporting of data submitted to governmental entities; and effectively prevent and detect violations of applicable laws, statutes, regulations, permits, agreements, orders, and internal manuals, policies, and procedures. The assessment shall include, but is not limited to:

- i. evaluation of Hydro USA's current management structure, adequacy of staffing and resources for ethics and compliance functions, systems, databases, training, standards, governance documents, policies, and procedures;
- ii. review of the corporate ethical culture at Hydro USA's facilities which shall include review of the current baseline corporate ethical culture, and the impact of new efforts and initiatives designed to strengthen corporate culture; and
- iii. analysis of the efficacy of Hydro USA's development and implementation of policies and procedures that are designed to ensure Employees throughout Hydro USA's operations, facilities, and subsidiaries in the United States understand and comply with federal and state laws and regulations, which may be more stringent than the Code of Conduct.

Hydro USA shall require the Compliance Consultant to complete the duties described herein and issue a comprehensive written report detailing the Compliance Consultant's assessment conclusions (including any deficiencies) and recommendations no later than the one-year anniversary of the date the work plan was submitted to the EPA. The conclusions and recommendations shall be based on objective criteria with supporting descriptions or documentation indicating the basis for such conclusions and recommendations. Hydro USA shall also require the Compliance Consultant to include in the report a detailed description of the methodology used to create the report and shall require the Compliance Consultant to issue the report simultaneously to Hydro USA, the EPA Authorized Representative, and the Independent Monitor.

No later than ninety (90) days after the issuance of the Compliance Consultant's initial report, Hydro USA shall provide a corrective action plan to correct all deficiencies identified in the Compliance Consultant's report to the Compliance Consultant, the EPA Authorized Representative, and the Independent Monitor. In the corrective action plan, Hydro USA shall

propose corrective actions that address the Compliance Consultant's conclusions and recommendations and fully correct all deficiencies. Hydro USA is not bound to correct any deficiency in the specific manner recommended by the Compliance Consultant so long as the corrective action remediates such deficiency. In the corrective action plan, Hydro USA shall include specific dates or timelines to complete implementation of each corrective action. Hydro USA's failure to correct a deficiency prior to the submission of the Compliance Consultant's final report, as detailed below, may constitute a violation of a material provision of this Agreement. Hydro USA may consult with the Compliance Consultant during development and implementation of the corrective action plan.

Hydro USA shall require the Compliance Consultant to conduct a follow-up assessment, limited to Hydro USA's correction of the deficiencies, if any, identified in the Compliance Consultant's report and issue a final report no later than thirty (30) days after the second anniversary of this Agreement. Hydro USA shall require the Compliance Consultant to include in the final report an assessment of the failure of any of Hydro USA's corrective actions to fully correct a deficiency and a detailed description of the methodology used to create the final report and shall require the Compliance Consultant to issue the final report simultaneously to Hydro USA, the EPA Authorized Representative, and the Independent Monitor. Hydro USA shall require the Compliance Consultant to certify in the final report whether or not Hydro USA has fully corrected the deficiencies identified in the Compliance Consultant's report. Hydro USA's failure, as identified in the Compliance Consultant's final report, to fully correct a deficiency may constitute a violation of a material provision of this Agreement.

21. INDEPENDENT MONITOR. Hydro USA, at its sole expense, shall retain an Independent Monitor for the duration of this Agreement who meets the qualifications identified below to perform oversight of this Agreement.

Hydro USA shall provide the EPA Authorized Representative with the Independent Monitor's name, telephone number, email address, current position, resume, certification of independence, and a summary of the Independent Monitor's qualifications no later than fourteen (14) calendar days after the effective date of this Agreement. If there is a change in Independent Monitor during the term of this Agreement, Hydro USA shall provide the EPA Authorized Representative with the new Independent Monitor's name, telephone number, email address, current position, resume, and a summary of the new Independent Monitor's qualifications fourteen (14) calendar days after obtaining the services of the new Independent Monitor or fourteen (14) calendar days after the prior Independent Monitor's last day, whichever occurs earlier.

Hydro USA is responsible for ensuring that the Independent Monitor retained pursuant to this Agreement meets the qualifications below. Hydro USA's failure to retain the services of an Independent Monitor who meets the qualifications identified below will be considered a material breach of this Agreement.

The qualifications of the Independent Monitor shall include the necessary education, training, and experience to determine Respondents' compliance with this Agreement. The

Independent Monitor shall be qualified to evaluate compliance with the terms of this Agreement.

Hydro USA shall require the Independent Monitor to review this Agreement, its attachments, and any other documentation the Hydro USA or Independent Monitor believes necessary, in order to develop a monitoring work plan or program to be performed by the Independent Monitor, in accordance with the scope and provisions of this Agreement, as soon as possible, but no later than sixty (60) calendar days after retaining the services of the Independent Monitor. Hydro USA shall provide the EPA Authorized Representative with a copy of the Independent Monitor's work plan and methodology for developing the work plan no later than seventy-five (75) calendar days after the effective date of this Agreement.

Although it is Hydro USA's responsibility to obtain the services of a qualified Independent Monitor meeting the requirements established above in order to perform the responsibilities discussed herein, if the EPA has any concerns with the qualifications or performance of the Independent Monitor, the EPA will raise those concerns to Hydro USA in writing. It is Respondents' responsibility to take appropriate corrective action to address the EPA's written concerns. Respondents' failure to adequately address the EPA's written concerns within thirty (30) days of the EPA providing notification of such concerns to Hydro USA may be considered a material breach of this Agreement.

The EPA has no contractual or other relationship with the Independent Monitor nor any privity of contract with the Independent Monitor. The contractual relationship is solely between the Independent Monitor and Hydro USA.

- A. NATURE OF EMPLOYMENT.** Hydro USA shall retain the Independent Monitor as an independent check upon Respondents' compliance with this Agreement. Hydro USA shall ensure that the Independent Monitor is not an agent of any Respondent or the EPA, and their work pursuant to this Agreement is not subject to Respondents' assertion of the attorney-client or work product privilege doctrines. Hydro USA shall ensure that the Independent Monitor is an independent party who is appropriately certified, licensed, and qualified to perform the responsibilities discussed herein and who has had no previous business relationship with Respondents. Hydro USA shall require the Independent Monitor to make available to the EPA, upon request, information and supporting documentation related to the Independent Monitor's performance under this Agreement. Hydro USA shall require the Independent Monitor to provide the EPA with the requested information and documentation within fourteen (14) days of the EPA's request.
- B. ANNUAL CERTIFICATION OF INDEPENDENCE.** Hydro USA shall require the Independent Monitor to provide an affidavit to Hydro USA, upon initial selection of the Independent Monitor and annually on September 1, for the duration of this Agreement, certifying that the Independent Monitor has no financial, professional, personal, familial, or other interest that would create an actual or apparent conflict of interest with Respondents, Respondents' employees, or Affiliates, other than that arising from the appointment as the Independent Monitor. The affidavit must also certify that their representation of any other client will not create an actual or apparent conflict of interest

in fulfilling their responsibilities as Independent Monitor. Hydro USA shall provide a copy of the certification to the EPA at the time of providing initial notification to the EPA Authorized Representative of Hydro USA's selection of an Independent Monitor as discussed above, and annually with the submission of Hydro USA's Annual Report to the EPA on September 30, for the duration of this Agreement.

- C. PARTICULAR DUTIES.** Hydro USA shall require the Independent Monitor to review Hydro USA's Annual Reports required under this Agreement and certify whether or not Respondents have complied with the terms of this Agreement during the reporting period. Hydro USA shall provide the Independent Monitor with the same access to materials and Employees as Hydro USA provides the EPA Authorized Representative pursuant to "V.7" of this Agreement. Hydro USA shall require the Independent Monitor to provide the Independent Monitor's certification to Hydro USA, and simultaneously provide a copy to the EPA, with the submission of the Independent Monitor's Annual Report, as discussed below.

In addition, during the term of this Agreement, Hydro USA shall require the Independent Monitor to perform an annual review of this Agreement and submit their findings to Hydro USA and EPA in an Annual Report pursuant to the following schedule. This review shall include Hydro USA's compliance with Section IV ¶ 20 of this Agreement but shall not duplicate the work of the Compliance Consultant. The first and second Annual Report shall be received annually by the EPA Authorized Representative and Hydro USA by December 7, for the duration of this Agreement. The final Annual Report shall be received by the EPA Authorized Representative and Hydro USA by October 7, 2026. Hydro USA shall ensure that the Independent Monitor receives a copy of any document submitted to EPA pursuant to this Agreement. Hydro USA shall require the Independent Monitor to annually review Hydro USA's reports, any supporting documentation, and any other documentation required pursuant to this Agreement, in order to prepare the Annual Report for Hydro USA, evaluating Respondents' compliance with this Agreement and recommending any changes that seem appropriate. Hydro USA shall direct the Independent Monitor to issue the Annual Report to Hydro USA and to EPA without first discussing its proposed conclusions with Hydro USA. After review of the annual report, EPA, at its discretion, may provide additional recommendations to Hydro USA. Hydro USA shall provide its action plan for implementing any recommended changes to EPA and the Independent Monitor within sixty (60) calendar days of receipt of such recommendations. Hydro USA's failure to timely complete a corrective action may constitute a violation of a material provision of this Agreement.

- 22. REPORTS.** Annually, beginning from the effective date of this Agreement, Hydro USA shall prepare and submit a written report to the EPA Authorized Representative and Independent Monitor describing the measures taken by Respondents during the previous one-year period designed to ensure compliance with this Agreement. The first and second Annual Report shall be received by the EPA Authorized Representative and Independent Monitor annually on September 30, for the duration of this Agreement. The final Annual Report shall be received by the EPA Authorized Representative and Independent Monitor by August 7, 2026. Hydro USA's failure to meet these requirements on the dates agreed to may constitute

a violation of a material provision of this Agreement.

The reports shall include, but not be limited to:

- a. A detailed summary and, if applicable, supporting documentation to demonstrate full compliance with each term of this Agreement for the period covered by the report;
- b. All documentation required by Section IV;
- c. Any documentation required by the General Provisions in Section V;
- d. A detailed summary of Hydro USA's efforts and progress to maintain a comprehensive ethics and compliance program that promotes an organizational culture that encourages ethical conduct and compliance by all Employees and effectively prevents and detects violations of applicable laws, statutes, regulations, agreements, orders, and internal policies and procedures, as required by Section IV ¶ 3;
- e. Status updates of any matters previously reported pursuant to Section V ¶ 4 Reports of Legal Proceedings and Government Investigations and Section V ¶ 5 Reports of Noncompliance or Misconduct;
- f. A statement of any shortcomings identified through the process of implementing the requirements of this Agreement, corrective action proposed or initiated, and the status of any corrective action(s); and
- g. Any substantiated reports made to the hotline or online reporting system (regardless of subject matter) in Section IV ¶ 11, and any substantiated instances of suspected misconduct brought to the attention of management through any other channel during the reporting period. Hydro USA shall summarize the facts of each matter, stating the date and source (generically identified only as Employee, consultant, outsider, etc.), medium of the report, the date and nature of the reported conduct, type and results of any internal investigation, corrective and/or disciplinary action, and date of feedback to the source of the information. Matters pending resolution at the time of a reporting period shall be reported in each subsequent report until final resolution of the matter is reported. If Hydro USA has received no reports, Hydro USA shall report that fact. For purposes of this report, Hydro USA may summarize the matters reported. Hydro USA's complete files on each case, however, shall be made available to the EPA Authorized Representative and Independent Monitor upon request.

The first Annual Report shall include information confirming that all items that are required to be completed by September 30, 2024, pursuant to IV.13 and IV.18, have been completed.

23. ACKNOWLEDGEMENT. By their endorsement of this Agreement, Respondents acknowledge the facts related to the actions of Hydro USA and its Employees as stated in the Preamble herein are true and constitute grounds for suspension and debarment of Respondents and statutory disqualification of Hydro USA.

V. GENERAL PROVISIONS

- 1. LEP EMPLOYEES.** Hydro USA will reduce language barriers for its Employees that are limited English proficient (“LEP”) (who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English) by providing the limited English proficient Employees with language assistance services for the written materials, notices, and/or training required under this Agreement. Language assistance services may include, but are not limited to, oral interpretation services, bilingual staff, or written language services.
- 2. NOTICE TO EMPLOYEES.** Respondents will notify all Hydro USA Employees and Employees at Norsk Hydro’s headquarters in Norway of the fact and substance of this Agreement, the nature of the wrongdoing leading to this Agreement, and the importance of each Employee abiding by the terms and conditions of this Agreement and all requirements of law, regulations, and Respondents’ policies and procedures during the term of the Agreement. New such Employees shall be notified within thirty (30) days of their employment with Hydro USA as provided in this provision below.

Respondents may provide such Employees such notification of this Agreement by posting the notice with a uniform resource locator (“URL”) where a copy of the Agreement is accessible on their respective intranet sites in such a manner as to ensure access by all such Employees, and posting a copy of the notice to include the URL in Respondents’ Employee break areas or other similar common areas normally used to post notices for such Employees, if such areas or intranet site exists. If posting this notification on the Respondents’ intranet and common areas as set forth herein does not ensure access to all such Employees, Respondents shall send this notification to all such Employees and obtain written and signed documentation from each Employee certifying that each Employee reviewed and understands the notification.

- 3. CORPORATE OFFICIAL’S CERTIFICATION.** Hydro USA’s President and Norsk Hydro’s Vice President, Chief Compliance Officer shall respectively certify annually, based on information and belief formed after a reasonable inquiry, that Hydro USA and Norsk Hydro, respectively, are in compliance with all applicable terms and conditions of this Agreement.
- 4. REPORTS OF LEGAL PROCEEDINGS AND GOVERNMENT INVESTIGATIONS.** Respondents represent to the EPA that, to the best of their knowledge, neither they nor any of their Principals or affiliates are currently under criminal or civil investigation by any U.S. governmental entity.

In addition to any periodic written reports, Hydro USA shall notify the EPA Authorized Representative as soon as possible, and no later than ten (10) days after any Respondent becomes aware of:

- A. The initiation or continued development of any criminal or civil investigation by any U.S. governmental entity involving allegations of any violation(s) of state or federal environmental laws, Foreign Corrupt Practices Act, false statements, false claims, corruption, conflict of interest, or antitrust violations, or if any Respondent has reason to believe that it or any of its Principals, Affiliates, Employees, or Agents is a target or subject of such investigation. “Initiation or continued development” in a criminal matter includes, but is not limited to, the issuance of a subpoena, the execution of a search warrant, or formal charges. “Initiation or continued development” in a civil matter includes, but is not limited to, the commencement of discovery, depositions, the issuance of administrative subpoenas, administrative adjudication, and the issuance of show cause orders;
 - B. Initiation of any U.S. legal action including, but not limited to, qui tam actions or citizen suits against Respondents or any of their Principals, Affiliates, Employees, or Agents by any entity alleging violations of any state or federal environmental laws, the Foreign Corrupt Practices Act, false statements to government authorities or public filings, including filings required by U.S. security laws, false claims for government reimbursement, public corruption, conflict of interest, or antitrust violations;
 - C. Criminal charges, civil lawsuits, or administrative proceedings, including suspension or debarment actions, brought by any U.S. governmental entity against Respondents or any of their Principals, Affiliates, Employees, or Agents, in a matter relating to the business of Respondents; or
 - D. Any conviction or guilty plea, nolo contendere plea, deferred prosecution agreement, pre-trial diversion agreement, civil judgment or civil consent decree in which Respondents or any of its Principals, Affiliates, Employees, or Agents are parties in a matter relating to the U.S. business of Respondents.
5. **REPORTS OF NONCOMPLIANCE OR MISCONDUCT.** Hydro USA shall report to the EPA Authorized Representative, as soon as possible and no later than thirty (30) days after discovery by any Respondent’s Principal(s) of any noncompliance with this Agreement or suspected misconduct which there are reasonable grounds to believe may constitute a violation of criminal or civil law or a state or federal administrative action or agreement when such misconduct is in any way related to any Respondent’s business with a governmental entity. The misconduct to be reported pursuant to this provision includes misconduct by Hydro USA’s Employees, affiliates, agents, or contractors, as related in any manner to Hydro USA’s business with a governmental entity.

Respondents will investigate all reports of noncompliance with this Agreement or misconduct involving Respondents’ business with a governmental entity that come to their attention, and Hydro USA will notify the EPA Authorized Representative of the outcome of such investigations and any potential or actual impact of the misconduct on any aspect of any Respondent’s business with a governmental entity. Respondents will take corrective action, including prompt restitution when established by a court or a tribunal with competent jurisdiction or agreed upon between the parties for any harm to the governmental entity.

Hydro USA will include summary reports of the status of each such investigation to the EPA Authorized Representative in the reports submitted pursuant to this Agreement until each matter is finally resolved. This requirement does not in any way waive Respondents' obligations to submit reports pursuant to any other section in this Agreement or requirements of the Federal Acquisition Regulation (FAR) 9.406-2 (b)(1)(vi) and 9.407-2 (a)(8), if applicable, or any other statutory or regulatory reporting requirement.

6. **SCHEDULE OF AUDIT REPORTS.** Hydro USA agrees to annually provide the EPA Authorized Representative with a schedule of all internal and independent outside audit reports, relating to: (a) environmental compliance; (b) health and safety compliance; and (c) corporate integrity and business ethics. The annual schedule of audit reports shall include a description of the audit, the name and contact information of the auditor and, when applicable, dates or proposed dates of the audits. No obligations under this paragraph shall require Hydro USA to provide information subject to attorney-client or attorney work product privilege doctrine.
7. **GOVERNMENT AUDITS AND ACCESS TO RECORDS AND INFORMATION.** In addition to any other right the Federal Government may have by statute, regulation, agreement, or contract, upon reasonable notice (minimum five (5) days), the EPA Authorized Representative may examine any Respondent's books, records, and other company documents and supporting materials for the purpose of verifying and evaluating any Respondent's compliance with the terms and conditions of this Agreement, including:
 - a. Any Respondent's business conduct in its dealings with its United States governmental customers, if any;
 - b. Any Respondent's compliance with United States federal laws, regulations, and procurement policies and with accepted business practices; and
 - c. Any Respondent's compliance with the requirements of covered transactions under the Nonprocurement Common Rule (2 C.F.R. Part 180) or any transaction covered under the Federal Acquisition Regulation (48 C.F.R. Chapter 1), as applicable.

The materials described above shall be made available by Respondents at all reasonable times for inspection, audit, or reproduction. Further, for purposes of this provision, the EPA Authorized Representative may interview any Respondent's employees at the employee's place of business during normal business hours or at such other place and time as may be mutually agreed between the employee and the EPA Authorized Representative. Unless an employee elects otherwise, employees will be interviewed without a representative of any Respondent or any Respondent's Principals being present. The employee may be represented personally by their own counsel, a union representative, or other representative not associated with Respondents if requested by the employee. The employee also may decline to be interviewed.

As an alternative to an on-site audit of Hydro USA's compliance with the terms and conditions of this Agreement, the EPA may, at its sole election, conduct an audit

electronically or by mail, in which instance Hydro USA shall provide documentation of its compliance with this Agreement, including, but not limited to, providing copies of documentation maintained as required in this Agreement and such additional documentation and/or certifications as may be requested by the EPA, to the extent those materials are not subject to the attorney-client or attorney work product privilege doctrine.

- 8. SALE OF THE RESPONDENTS BUSINESSES.** The sale or transfer of ownership of any Respondent's business or any divisions, subsidiaries, affiliates, business units, facilities, offices, or other corporate components, shall not be executed as an artifice to avoid being subject to this Agreement. The terms, conditions, and obligations of this Agreement shall survive a merger or acquisition of any Respondent's business or other reorganization of any Respondent's corporate structure and shall be fully binding upon any organization which is successor in interest. However, this Agreement is not intended to restrict the lawful and legitimate sale of assets through an arm's length transaction and would not bind an asset purchaser who purchases through an arm's length transaction.
- 9. THE RESPONDENTS' PURCHASE OF BUSINESSES.** In the event that any Respondent purchases or establishes new business units after the effective date of this Agreement, the Respondent shall implement all provisions of this Agreement to the new business units, including any training or education requirements, within one hundred and eighty (180) days following such purchase or establishment. Should any Respondent be unable to implement fully such provisions, training, or education requirements within one hundred and eighty (180) days, the Respondent shall notify the EPA Authorized Representative in writing, and shall propose a timeline for the complete implementation of the provisions of this Agreement to the new business units, which will be subject to the EPA SDO's approval. The Respondent shall be notified of the EPA SDO's decision on the implementation plan within thirty (30) days of their receipt of the plan.

If, during the period covered by this Agreement, any Respondent acquires or gains control of any business concern, which performs or may perform work on projects funded under covered transactions under the Nonprocurement Common Rule (2 C.F.R. Part 180) or transactions covered under the FAR (48 C.F.R. Chapter 1), the EPA Authorized Representative shall be notified within ten (10) days of the acquisition. Such notice shall state the name, address, nature of the business concern, and any work it has done for any government entities over the last year.

- 10. RESTRUCTURING OR ACQUISITION OF NEW BUSINESSES.** Respondents shall not, through a change of name, business reorganization, restructuring or realignment, sale or purchase of assets, or similar action, seek to avoid the obligations and conditions set forth in this Agreement.
- 11. HIRING NEW EMPLOYEES.** Prior to hiring any new Employees, Hydro USA shall make reasonable inquiry into the status of that Employee which, at a minimum, shall include a review of the System for Award Management (SAM) or any successor system as maintained by the General Services Administration (GSA) on the internet (<https://www.sam.gov/>) for federal procurement and nonprocurement programs. The results from all SAM searches shall

be kept in Hydro USA's records for at least the duration of this Agreement. Hydro USA is not, however, required to decline to employ prospective Employees who are suspended, debarred, proposed for debarment, or otherwise ineligible as prescribed by any governmental entity debarment program. However, Hydro USA will ensure that such Employees have no responsibility for, or involvement with, Hydro USA's business affairs related in any manner whatsoever with U.S. federal procurement and nonprocurement programs, as applicable, until the final resolution of such suspension, proposed debarment, debarment, or statutory disqualification.

12. EXISTING EMPLOYEES. Hydro USA is required to conduct a SAM search on all existing Employees within ninety (90) days of the Effective Date of this Agreement. Hydro USA is not, however, required to terminate the employment of Employees who are or become suspended, debarred, proposed for debarment, or otherwise ineligible as prescribed by any governmental entity debarment program during their employment with Hydro USA. However, Hydro USA will remove such Employees from responsibility for, or involvement with, Hydro USA's business affairs related in any manner whatsoever with federal procurement and nonprocurement programs, as applicable, until the final resolution of such suspension, proposed debarment, debarment, or statutory disqualification.

In addition, subject to relevant employment and other applicable laws, if Hydro USA learns that any Employee is charged with a criminal offense relating to business or otherwise relating to honesty or integrity, Hydro USA will remove that Employee immediately from responsibility for, or involvement with Hydro USA's business affairs as related in any manner to any U.S. governmental entity.

If Hydro USA learns that an Employee is suspended, debarred, and/or statutorily disqualified, Hydro USA shall notify the EPA Authorized Representative of such action and the reasons therefore, and whatever personnel action Hydro USA may have taken against the Employee, within fourteen (14) days of Hydro USA's knowledge of the suspension, debarment, and/or disqualification action.

13. TRANSACTIONS WITH SUSPENDED, DEBARRED, OR DISQUALIFIED PERSONS AND INELIGIBLE TRANSACTIONS. Prior to entering into a new covered transaction under the Nonprocurement Common Rule (2 C.F.R. Part 180), any transaction covered under the FAR (48 C.F.R. Chapter 1) that is in excess of the subcontracting threshold contained in FAR Subpart 9.405-2(b), or renewing/exercising options to extend or otherwise extending such a transaction, Respondents shall review the SAM to identify any person that would be a participant, contractor, or principal in that transaction that may be currently excluded or disqualified from participation in such transaction as defined at II.9. Unless otherwise stated herein, Respondents shall not knowingly enter into any new covered transaction under the Nonprocurement Common Rule (2 C.F.R. Part 180), any transaction under the FAR (48 C.F.R. Chapter 1), or renew/exercise options to extend or otherwise extend such a transaction with a person listed on the SAM (<http://www.sam.gov>) as debarred, suspended, proposed for debarment, or otherwise ineligible as defined at II.12. In addition, if a possible match is identified, Respondents shall require the person to certify in writing as to

its status on the SAM. Respondents shall keep a paper copy of all search results and certifications that are required pursuant to this provision.

a. EXCEPTIONS FOR COVERED TRANSACTIONS.

(1) EPA COVERED TRANSACTIONS. Any Respondent may enter into an EPA covered transaction under the Nonprocurement Common Rule (2 C.F.R. Part 180) with a suspended or debarred person if: 1) the Respondent submits to the EPA Authorized Representative in writing the compelling reasons that justify entering into a business transaction with a person listed on the SAM as soon as possible, but not later than sixty (60) days prior to the date that the Respondent proposes to enter into such transaction; and 2) the EPA SDO approves the request for an exception to enter into the transaction. The EPA Authorized Representative shall notify the EPA SDO of the request. The EPA SDO shall respond to the request within forty-five (45) days of receipt of the request from the EPA Authorized Representative. Unless otherwise indicated in writing by the EPA Authorized Representative, each request must be made on a transaction-by-transaction basis. If the EPA SDO does not approve the exception request and any Respondent enters into an EPA covered transaction, the EPA may disallow costs, annul or terminate the transaction, issue a stop work order, debar or suspend the Respondent, or take other remedies as appropriate.

(2) OTHER FEDERAL AGENCY COVERED TRANSACTIONS. Respondents may not enter into a covered transaction with an excluded person unless the Federal Agency responsible for the transaction grants an exception under 2 C.F.R. § 180.135. Hydro USA shall notify the EPA Authorized Representative of any such exception requests within (30) days of the request to the Federal Agency and shall provide the EPA Authorized Representative with a copy of the exception approval, if granted, within ten (10) days of receipt of the exception approval.

b. REQUIREMENTS FOR TRANSACTIONS COVERED UNDER THE FAR. If any Respondent with federal contracts covered under the FAR and subject to FAR 9.405-2 and FAR 52.209, Hydro USA shall provide the EPA Authorized Representative with a copy of the written notification provided to the applicable Contracting Officer within ten (10) days of the notification to the Contracting Officer.

14. FUTURE MISCONDUCT DURING AGREEMENT. In matters unrelated to the misconduct stipulated herein, the EPA may find that any Respondent has breached this Agreement based on any misconduct which occurs during the period of the Agreement that leads to any action taken pursuant to 2 C.F.R. § 180.700, 2 C.F.R. § 180.800, or 48 C.F.R. Part 9, Subpart 9.4.

15. RESPONDENTS' LEGAL OBLIGATIONS. Nothing in this Agreement shall be deemed to limit or affect any Respondent's obligations under any federal, state, or local law or regulation, nor does this Agreement limit in any manner the EPA's ability to enforce any law or regulation within the EPA's jurisdiction.

16. UNALLOWABLE COSTS. Respondents agree that costs, as defined in FAR 31.205-47 or described at 2 C.F.R. § 200.402, that arise from or are related to this Agreement or an associated notice of suspension or proposed debarment, and that are incurred by, for, or on behalf of Respondents or any of Respondents' current or former officer(s), director(s), agent(s), employee(s), consultant(s), or affiliate(s), shall be expressly unallowable costs for covered transactions under the Nonprocurement Common Rule (2 C.F.R. Part 180) and transactions covered under the FAR (48 C.F.R. Chapter 1). Unallowable costs include, but are not limited to, costs arising from, related to, or in connection with:

- a. The matters at issue herein;
- b. The Government's criminal and civil investigations regarding the matters at issue herein; and
- c. The EPA's review of Respondents' present responsibility, including but not limited to, the costs of Respondents' submissions, presentations, and appearances before the EPA Suspension and Debarment Program offices.

Respondents' costs of performing, implementing, and administering the terms and conditions of this Agreement, the costs incurred by the EPA Authorized Representative, and any fines or penalties levied or to be levied in or arising out of this Agreement, are agreed to be expressly unallowable costs. Also unallowable are Respondents' costs of bringing Respondents' self-governance, compliance, and/or ethics programs to a level acceptable to the EPA. Respondents agree to account separately for such costs. Respondents' costs of maintaining, operating, and improving Respondents' corporate self-governance/compliance/ethics programs that are incurred after expiration of this Agreement, may be allowable costs.

Respondents agree to treat as unallowable costs the full salary and benefits of any officer, Employee, or consultant terminated from Respondents' employ or removed from participation in covered transactions (2 C.F.R. Part 180) or transactions covered under the FAR (48 C.F.R. Chapter 1) as a result of the wrongdoing at issue here, and the cost of any severance payments or early retirement incentive payments paid to Employees released from the Respondents' employ as a result of the wrongdoing at issue here. For purposes of the preceding sentence, the salary and benefits costs shall include all such costs from the first instance of participation of each individual in the matters at issue here, as determined by the EPA Authorized Representative.

Respondents recognize that in order to comply with the terms and conditions of this paragraph, certain costs may need to be reclassified. Respondents shall proceed immediately to identify and reclassify such costs and, within ninety (90) days of the effective date of this Agreement, Respondents shall adjust any bid rate, billing rate, or unsettled final indirect cost rate pools to eliminate any costs made unallowable by this Agreement, and shall advise the EPA Authorized Representative, the cognizant administrative contracting officer or award official, and the cognizant Government auditor of the amount and nature of the reclassified costs within one hundred and twenty (120) days of the date of this Agreement. The EPA Authorized Representative or a designated representative shall have the right to audit

Respondents' books and records to verify compliance with this paragraph, to the extent those materials are not subject to the attorney-client or attorney work product privilege doctrine. Such audit rights shall be in addition to any audit rights the Government may have under the terms of any covered transactions under the Nonprocurement Common Rule (2 C.F.R. Part 180) and transactions covered under the FAR (48 C.F.R. Chapter 1) with Respondents.

17. ADVERSE ACTIONS. Respondents avers that adverse actions taken, or to be taken by them against any Employee or other individual associated with any Respondent arising out of or related to the wrongdoing at issue herein were solely the result of the Respondent's initiatives and decisions and were not the result of any action by, or on behalf of, agents or employees of the United States.

18. BREACH OF AGREEMENT / SURVIVAL OF CAUSE FOR DEBARMENT.

Respondents' material failure, as determined by the SDO, to meet any of their obligations pursuant to the terms and conditions of this Agreement or any agreement specifically incorporated herein, if determined by the SDO to be a material breach of this Agreement, shall constitute a separate cause for suspension and/or debarment of Respondents. Repeated violations of provisions of this Agreement may cumulatively constitute a material breach of the Agreement. The underlying causes for debarment survive the execution of this Agreement, and the EPA may initiate suspension or debarment proceedings against Respondents or statutorily disqualify Hydro USA on these grounds if there is a material breach of this Agreement. Nothing in this provision or this Agreement shall be construed as a waiver of any legal rights of any Respondent to contest the SDO's determination of breach.

19. RESOLUTION OF DEBARMENT, SUSPENSION, OR STATUTORY

DISQUALIFICATION. Provided that the terms and conditions of this Agreement are fulfilled, EPA will not suspend, debar, or statutorily disqualify Respondents and will lift any existing suspension, debarment, or statutory disqualification, as applicable, based on the facts and circumstances set forth in the Preamble herein. The EPA SDO's decision, which is based upon the facts at issue here, shall not restrict the EPA or any other Federal Agency from instituting administrative actions, including, without limitation, suspension, debarment, or statutory disqualification should:

- a. Other information indicating the propriety of such action comes to the attention of the EPA or such other Federal Agency; or
- b. Additional information concerning the facts at issue here is discovered by the EPA or such other Federal Agency and was not disclosed by Respondents.

This Agreement relates solely to suspension, debarment, and statutory disqualification issues, pursuant to 48 C.F.R. Part 9, Subpart 9.4 and 2 C.F.R. Part 180 as implemented by 2 C.F.R. § 1532, in conjunction with the circumstances recited herein and in no way waives any criminal, civil, contractual, or administrative remedy or right which the Government may have for the circumstances so described in this Agreement.

- 20. NOTICE OF DEBARMENT PROCEEDINGS.** Respondents hereby waive all further notice and opportunity for hearing to which they may otherwise be entitled to except that Respondents shall receive such notice(s) and opportunity for hearing as they would otherwise be entitled if provisions “V.18” or “V.19” are invoked or if a subsequent suspension or debarment action is initiated pursuant to 48 C.F.R. Part 9, Subpart 9.4 and 2 C.F.R. Part 180 as implemented by 2 C.F.R. § 1532.
- 21. RELEASE OF LIABILITY.** Respondents hereby release the United States, its instrumentalities, agents, and employees in their official and personal capacities, of any and all liability or claims arising out of or related to the investigation, criminal prosecution, or civil settlement at issue here, or the suspension, proposed debarment, or debarment of Respondents or the discussions leading to this Agreement.
- 22. PRESENT RESPONSIBILITY.** By entering into this Agreement, the EPA is not determining that Respondents are presently responsible for any specific covered transaction under the Nonprocurement Common Rule (2 C.F.R. Part 180) or transactions covered under the FAR (48 C.F.R. Chapter 1). Respondents’ compliance with the terms and conditions of this Agreement may be a relevant factor to be considered by an award official in rendering a responsibility determination for purposes of these transactions.
- 23. RESTRICTION ON USE.** Respondents shall not use any term or condition of this Agreement, or the fact of the existence of this Agreement, for any purpose related to the defense of, or in mitigation of, any criminal, civil, or administrative investigation or action by any element of the Federal Government. However, the existence of this Agreement may be used in any action or proceeding initiated by any Federal Agency to suspend, debar, or otherwise render ineligible Respondents based on the events giving rise to this Agreement.
- 24. BANKRUPTCY.** Respondents shall not use bankruptcy proceedings to affect the enforcement of this Agreement in the interests of the Federal Government.
- 25. ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements and understandings, whether oral or written, relating to the subject matter hereof. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns.
- 26. COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall be an original, but all of which, taken together, shall constitute one and the same agreement.
- 27. SEVERABILITY.** In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions of this Agreement.

28. PARAGRAPH HEADINGS. The paragraph headings in this Agreement are inserted for convenient reference only and shall not affect the meaning or interpretation of this Agreement.

29. PROPOSED CHANGES. Hydro USA shall notify the EPA Authorized Representative at least forty-five (45) days prior to instituting any material proposed changes in the directives, instructions, procedures, or programs governed by this Agreement. The EPA will verify, approve, or disapprove any such changes within thirty (30) days of receipt of notification by Hydro USA. The proposed changes are effectively approved if no response is issued by the EPA within forty-five (45) days of receipt of the proposed changes. The EPA reserves the right to require additional time to review proposed changes.

30. EFFECTIVE DATE AND MODIFICATION. This Agreement shall become effective only upon endorsement by the EPA SDO (the “Effective Date” of this Agreement). This Agreement may be amended or modified only by a written document signed by all parties, and shall become effective only upon endorsement by the EPA SDO. Any such request for modification by any Respondent shall be submitted to the EPA SDO through the EPA Authorized Representative. Requests shall be denied, endorsed, or endorsed as modified by the EPA SDO within thirty (30) calendar days of the EPA SDO’s receipt of said request from the EPA Authorized Representative. A request for termination or modification is deemed to be denied unless expressly endorsed or endorsed as modified by the EPA SDO.

31. NOTICES. Any notices, reports, or information required hereunder shall be in writing and delivered electronically (contact the EPA Authorized Representative to make alternative arrangements if electronic delivery is not possible) as follows:

To Respondents (Respondents Authorized Representative(s)):

Jacquelyne Belcastro
Vice President & Head of Legal – North America; Vice President & Secretary of Hydro Extrusion USA, LLC
Hydro Extrusion USA, LLC
6250 N. River Road, Suite 5000
Rosemont, Illinois 60018
Phone: 847-682-9758
Email: jacquelyne.belcastro@hydro.com

Nancy Cisek
Director, Legal – Extrusion North America
Hydro Extrusion USA, LLC
6250 N. River Road, Suite 5000
Rosemont, Illinois 60018
Phone: 773-354-1117
Email: nancy.cisek@hydro.com

Gemetchu Hika
Vice President, Chief Compliance Officer
Norsk Hydro
Phone: +47 22 53 81 00
Email: gemetchu.hika@hydro.com

To EPA (EPA Authorized Representative(s)):

Brandon McDowell
USEPA National Enforcement Investigations Center
Denver Federal Center
Building 25/Door E-3
P.O. Box 25227
Lakewood, Colorado 80225
Phone: 202-564-1882
Email: mcdowell.brandon@epa.gov

or such other address as either party shall have designated by notice in writing to the other party. Submissions to EPA may be electronic only.

- 32. PUBLIC DOCUMENT.** This Agreement, including all attachments and reports submitted pursuant to this Agreement, subject to the restrictions under the Privacy Act, exemptions under the Freedom of Information Act, or other applicable limitations, is a public document and may be distributed by the EPA throughout the Government and entered into Government data base systems as appropriate, and provided to other interested persons upon request. It is Respondents' responsibility to claim as Confidential Business Information (CBI) any and all documents attached to and submitted pursuant to the requirements of this Agreement. If CBI is not claimed at the time such documentation is submitted to the EPA, Respondents hereby agrees they have waived such claim and have no objection to the EPA releasing such information to the public as appropriate.

This Agreement, without the attachments, will be posted on the Federal Awardee Performance and Integrity Information System and any other public website as required by law.

- 33. EPA RELIANCE.** Respondents and Respondents' signatories hereto represent that subject to criminal penalties pursuant to 18 U.S.C. § 1001 all written materials and other information supplied to the EPA by their authorized representative(s) during the course of discussions with the EPA preceding this Agreement, and during the term of this Agreement, are true, current, complete, and accurate to the best of their information and belief. Respondents also represent that they have provided to the EPA all material, non-privileged information in their possession relating to the facts at issue. Respondents understand that this Agreement is executed on behalf of the EPA in reliance upon the truth, accuracy, and completeness of all such representations.

- 34. TIME IS OF THE ESSENCE.** Time is of the essence with respect to the performance of, compliance with, and receipt of the benefit of all rights, duties, and obligations herein. If EPA should provide additional time for Respondents to comply with any specific deadline hereunder, such tolerance by EPA shall not be construed as a waiver or modification for any future deadlines as required herein.
- 35. RESPONDENTS' SIGNATORY(IES).** Jason Adams, Vice President, HSE, Risk & Quality, is fully authorized to execute this Agreement and represents that he has authority to bind Hydro USA. Anne-Lene Midseim, EVP Compliance, IP & General Counsel, and Paul Warton, EVP, Hydro Extrusions are fully authorized to execute this Agreement and represent that they have authority to bind Norsk Hydro.
- 36. ENDORSEMENT BY SUSPENSION AND DEBARMENT OFFICIAL.** This Agreement shall become effective only upon its endorsement by the EPA SDO.
- 37. TERM.** The period of this Agreement shall be three (3) years from the date of endorsement by the EPA SDO.

VI. PARTIES' ENDORSEMENTS

NORSK HYDRO ASA

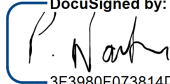


Anne-Lene Midseim
Executive Vice President, IP & General Counsel
Norsk Hydro ASA

11 Dec 2023

DATE

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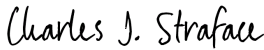
Paul Warton, Executive Vice President
Hydro Extrusions

12/11/2023 | 10:24 AM CET

DATE

HYDRO EXTRUSION USA, LLC

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Charles J. Straface, President
Hydro Extrusion USA, LLC

12/11/2023 | 5:53 AM PST

DATE

VI. PARTIES' ENDORSEMENTS

NORSK HYDRO ASA

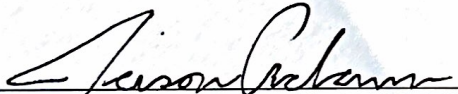
Anne-Lene Midseim
Executive Vice President, IP & General Counsel
Norsk Hydro ASA

DATE

Paul Warton, Executive Vice President
Hydro Extrusions

DATE

HYDRO EXTRUSION USA, LLC



Jason Adams, Vice President, HSE, Risk & Quality
Hydro Extrusion USA, LLC

12/11/2023
DATE

**FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
SUSPENSION AND DEBARMENT DIVISION**

Jennifer W. Lin
Debarment Counsel
EPA Suspension and Debarment Division

DATE

VII. SUSPENSION AND DEBARMENT OFFICIAL’S ENDORSEMENT

Having reviewed the terms and conditions of the above Administrative Agreement between the Environmental Protection Agency and Hydro Extrusion USA, LLC and Norsk Hydro ASA, and in reliance on the representations, covenants, and terms herein, I hereby endorse the said terms and conditions as an appropriate resolution of this matter. This approval is conditioned upon full compliance with all the terms and conditions of this Agreement. Any violation of a material provision of this Agreement or failure to comply with all the terms and conditions of this Agreement may result in a discretionary suspension or debarment as appropriate.

James P. Lemley
EPA Suspension and Debarment Official

DATE

ATTACHMENTS

Attachment 1 – Judgment, *United States v. Hydro Extrusion USA, LLC*, No. 3:22-CR-00299-MO (D. Or. Dec. 11 2023).

Attachment 2 – Information, *United States v. Hydro Extrusion USA, LLC*, No. 3:22-CR-00299-MO (D. Or. Aug. 23, 2022).

Attachment 3 – Plea Agreement, *United States v. Hydro Extrusion USA, LLC*, No. 3:22-CR-00299-MO (D. Or. Jan. 24, 2023).

Attachment 4 – Norsk Hydro 2022 Annual Report.

Attachment 5 – Norsk Hydro’s “About Hydro worldwide/Americas/United States” webpage, accessed April 12, 2023.

Attachment 6 – Hydro USA’s Initial Compliance Report to DOJ, dated April 22, 2020.

Attachment 7 – Hydro USA’s Petition for Reinstatement Submission to EPA, dated July 1, 2022.

Attachment 8 – Hydro USA’s Second Supplemental Submission to EPA, dated January 20, 2023.

Attachment 9 – Press Release, “Sapa Acquires Aluminium Casting Plant Enhancing Its Capabilities in the Pacific Northwest,” September 22, 2015.

Attachment 10 – Press Release, “[Norsk Hydro: Hydro USA] acquires Sapa to create a global aluminium champion,” July 10, 2017.

Attachment 11 – Mutual Agreement and Final Order, *In re Hydro Extrusion USA, LLC*, Case No. AQ/V-ER-2019-199 (Or. Env’t Quality Comm’n, May 13, 2021).

Attachment 12 – Email from ODEQ to EPA, dated October 28, 2022.

Attachment 13 – ODEQ’s Pre-Enforcement Notice, No. 2019-PEN-4642, issued on June 10, 2019.

Attachment 14 – Hydro USA’s Supplemental Submission to EPA, dated October 28, 2022.

Attachment 15 – Mutual Agreement and Final Order, *In re Hydro Extrusion USA, LLC*, Case No. WQ/I-ER-2019-250 (Or. Env’t Quality Comm’n, June 24, 2021).

Attachment 16 – Email from ODEQ to EPA, dated March 28, 2023.

Attachment 17 – Hydro USA’s Third Supplemental Submission to EPA, dated March 7, 2023.

Attachment 18 – Consent Decree, *United States v. Cressona Aluminum Co.*, No. 92-5212 (E.D. Penn.).

Attachment 19 – Health, Safety, Security, Environment Global Directive, updated September 14, 2020.

Attachment 20 – HSE Management System Audit Global Procedure, updated September 14, 2020.

Attachment 21 – HSE Risk Management Global Procedure, updated September 14, 2020.

Attachment 22 – HSE Incident Management Global Procedure, updated September 14, 2020.

Attachment 23 – Code of Governance, updated September 10, 2020.

Attachment 24 – Compliance System for Managing Compliance Risks Global Procedure, last updated June 30, 2020.

Attachment 25 – Alert Case Management Global Procedure, last updated May 13, 2020.

Attachment 26 – Integrity Risk Management of Agents and Intermediaries Global Procedure, last updated November 15, 2021.

Attachment 27 – Integrity Risk Management of Hydro USA’s Business Partners Global Procedure, last updated May 31, 2020.

Attachment 28 – Training, Awareness, and Competence Global Procedure, last updated September 14, 2020.

Attachment 29 – Enterprise Risk Management Global Directive, last updated April 21, 2020.

Attachment 30 – Internal Board Mandate, last updated September 9, 2022.

Attachment 31 – Audit Committee Mandate, last updated September 18, 2020.

Attachment 32 – Review Committee Mandate, last updated September 18, 2020.

Attachment 33 – Group Internal Audit and Investigation Charter, last updated December 12, 2022.

Attachment 34 – Internal Investigation Global Procedure, last updated May 12, 2020.

Attachment 35 – Management of Hydro USA’s Governance Documents Global Procedure, last updated May 30, 2020.

Attachment 36 – Global Procedure Environment Management, last updated November 16, 2020.

Attachment 37 – Norsk Hydro Code of Conduct, dated 2019.

Attachment 38 – Extrusion North America Employee Handbook, updated March 2021.

Attachment 39 – Hydro USA’s Second Annual Compliance Report to U.S. DOJ, dated April 22, 2021.

Attachment 40 – Hydro USA’s Third Annual Compliance Report to U.S. DOJ, dated March 22, 2022.

Attachment 41 – Hydro USA’s Fourth Supplemental Submission to EPA, dated April 4, 2023.

Attachment 42 – Hydro USA’s AlertLine and Reporting Guidance, dated April 11, 2023.