

# PROJECT AGREEMENT FOR HYDROGEN ENERGY SUPPLY CHAIN PILOT PROJECT

An agreement between:

- n the **Commonwealth of Australia**; and
- n **Victoria**.

The output of this project will be a pilot project to demonstrate the feasibility of a hydrogen energy supply chain based on gasification of brown coal to produce liquid hydrogen for use in Japan.

# Project Agreement for Hydrogen Energy Supply Chain Pilot Project

## OVERVIEW

1. This Project Agreement (the Agreement) is created subject to the provisions of the Intergovernmental Agreement on Federal Financial Relations (IGA FFR) and should be read in conjunction with that Agreement and its Schedules, which provide information in relation to performance reporting and payment arrangements under the IGA FFR.

### Purpose

2. This Agreement will support the delivery of a pilot project to demonstrate the feasibility of a hydrogen energy supply chain (HESC) involving preparation and gasification of brown coal, refining and liquefaction of hydrogen and the transport of liquid hydrogen to Japan. The pilot will inform the commercial viability of a long-term HESC from Australia to Japan.

### Reporting Arrangements

3. Victoria will report six monthly against the agreed milestones during the operation of this Agreement, as set out in Part 4 – Project Milestones, Reporting and Payments.

### Financial Arrangements

4. The Commonwealth will provide an estimated total financial contribution to Victoria of \$50 million, exclusive of GST in respect of this Agreement, as set out in Part 5 – Financial Arrangements.

## PART 1 – FORMALITIES

5. This Agreement constitutes the entire agreement for this project. The Agreement will operate alongside a separate Pilot Hydrogen Energy Supply Chain Project Funding Agreement (HESC Agreement) between Victoria and Hydrogen Engineering Australia Pty Ltd (HEA).

### Parties to this Agreement

6. This Agreement is between the Commonwealth of Australia (the Commonwealth) and Victoria.

### Term of the Agreement

7. This Agreement will commence as soon as the Commonwealth and Victoria sign it and will expire on 30 June 2021 or on completion of the project, including final performance reporting and processing of final payments against milestones, unless terminated earlier or extended as agreed in writing by the Parties.

## PART 2 – PROJECT OUTPUTS

### Outputs

8. The outputs of this Agreement will be:
  - (a) construction of a gas refining plant in the Latrobe Valley and hydrogen liquefaction and loading facilities at the Port of Hastings;
  - (b) delivery of a coal preparation technologies plan for brown coal that could be applied for the commercial production of hydrogen;
  - (c) delivery of a commercialisation plan which details the activities to be undertaken to support a decision by HEA and the Participating Organisations as to whether to invest in a commercial scale HESC; and
  - (d) the demonstration of a pilot hydrogen supply chain from Australia to Japan including:
    - i. production of hydrogen from the successful gasification of brown coal and transportation of the hydrogen from the Latrobe Valley to the Port of Hastings; and
    - ii. successful liquefaction of hydrogen at the Port of Hastings and transport of liquefied hydrogen from the Port of Hastings to Japan.

## PART 3 – ROLES AND RESPONSIBILITIES OF EACH PARTY

### Role of the Commonwealth

9. The Commonwealth will be responsible for:
  - (a) monitoring and assessing achievement against milestones in the delivery of the Hydrogen Energy Supply Chain Pilot Project under this Agreement to ensure that outputs are delivered within the agreed timeframe;
  - (b) providing a consequent financial contribution to Victoria to support the implementation of this Agreement;
  - (c) in accordance with the *Building and Construction Industry (Improving Productivity) Act 2016*, ensuring that financial contributions to a building project or projects as defined under the Fair Work (Building Industry – Accreditation Scheme) Regulations 2016 are only made where a builder or builders accredited under the Australian Government Building and Construction WHS Accreditation Scheme is contracted; and
  - (d) ensuring that compliance with the Code for the Tendering and Performance of Building Work 2016 (Building Code 2016) is a condition of Australian Government funding.

### Role of Victoria

10. Victoria will be responsible for:
  - (a) agreeing the contents of the HESC Agreement with the Commonwealth before it is executed with HEA;
  - (b) providing a matching financial contribution totalling at least \$50 million to support the implementation of the HESC Agreement;
  - (c) providing the Commonwealth with a copy of the HESC Agreement and any other agreements between Victoria and HEA;
  - (d) all aspects of delivering on the project outputs set out in this Agreement;
  - (e) reporting on the delivery of outputs as set out in Part 4 – Project Milestones, Reporting and Payments;

- (f) ensuring that only a builder or builders accredited under the Australian Government Building and Construction WHS Accreditation Scheme is contracted, and providing the necessary assurances to the Commonwealth;
- (g) ensuring that compliance with the Building Code 2016 is made a condition of tender for and performance of building work by all contractors and subcontractors, and providing the necessary assurances to the Commonwealth;
- (h) notifying the Commonwealth as soon as practicable if any of the following occur in relation to the HESC Agreement:
  - i. there are any material changes to the substance of the HESC Agreement;
  - ii. there are any material changes to HEA's capacity to fulfil its obligations under the HESC Agreement;
  - iii. there are any changes to the funding amounts under the HESC Agreement;
  - iv. there are any material breaches of the HESC Agreement;
  - v. any disputes arise out of the HESC Agreement; and
  - vi. Victoria forms the opinion that a Default Event has occurred under the HESC Agreement;
- (i) licensing Intellectual Property rights to the Commonwealth equivalent to those that are afforded to Victoria under the HESC Agreement;
- (j) seeking Commonwealth approval of HEA's proposed Commercialisation Plan prior to issuing Victoria's approval; and
- (k) ensuring that HEA has company guarantees for all Participating Organisations in favour of Victoria.

## Shared roles

- 11. The Commonwealth and Victoria will agree on governance arrangements for the HESC Project, which must include:
  - (a) the establishment of an Intergovernmental Steering Committee to provide oversight of the Project Agreement and Victoria's responsibilities to the Commonwealth under the HESC Agreement; and
  - (b) the establishment of a separate HESC Project Governance structure, including a Steering Committee with strategic oversight of the HESC project, and a Working Group to review project plans and develop project documentation.
- 12. The Parties will meet the requirements of Schedule E, Clause 26 of the IGA FFR, by ensuring that prior agreement is reached on the nature and content of any events, announcements, promotional material or publicity relating to activities under this Agreement, and that the roles of both Parties will be acknowledged and recognised appropriately.

## PART 4 – PROJECT MILESTONES, REPORTING AND PAYMENTS

- 13. Table 1 summarises the milestones for the project, their relationship to the outputs, expected completion dates, relevant reporting dates and expected payments to be made. The Commonwealth will make payments subject to the annual performance report demonstrating the relevant milestone has been met.

**Table 1: Performance requirements, reporting and payment summary**

Outputs	Performance milestones	Report due	Payment
<p>Construction of a gas refining plant in the Latrobe Valley; and liquifaction and transport facilities at the Port of Hastings</p> <p>Delivery of a coal preparation technologies plan</p>	<p>Completion of a Project Plan and Risk Management Plan</p> <p>Completion of a HESC Communication Strategy, Stakeholder Engagement Strategy and Implementation Plan</p> <p>Completion of an initial Scope of Works and Stage 1 Project Plan for the coal preparation work</p>	15 May 2018	\$10,000,000
<p>Construction of a gas refining plant in the Latrobe Valley; and liquifaction and transport facilities at the Port of Hastings</p>	<p>Execution of contracts to the value of at least \$10 million (total) for engineering design, purchase of equipment or construction</p> <p>Completion of an updated Project Plan and updated Risk Management Plan</p>	15 April 2019	\$10,000,000
<p>Construction of a gas refining plant in the Latrobe Valley; and liquifaction and transport facilities at the Port of Hastings</p> <p>Delivery of a coal preparation technologies plan</p> <p>Delivery of a commercialisation plan</p>	<p>Completion of a detailed design for the hydrogen liquefaction and loading terminal in Hastings</p> <p>Completion of a detailed design for the gas refining plant in Latrobe Valley</p> <p>Completion of an updated Project Plan and updated Risk Management Plan</p> <p>Completion of a report on the outcomes of the coal preparation work</p> <p>Completion of an initial commercialisation plan</p>	15 April 2020	\$17,500,000
<p>Demonstration of a pilot hydrogen supply chain</p> <p>Delivery of a commercialisation plan</p>	<p>Generation of hydrogen at Latrobe Valley from gasified Victorian brown coal, to the specification required for liquefaction, and transported to the Port of Hastings</p> <p>Liquefaction of hydrogen at the Port of Hastings and the loading of liquified hydrogen onto a carrier ship at the Port of Hastings</p> <p>Completion of a commercialisation plan</p>	15 May 2021	\$12,500,000

14. If a milestone is met in advance of the due date, where the relevant performance report demonstrates that the milestone has been met, the Commonwealth may make the associated payment earlier than scheduled provided it falls within the same financial year as the original milestone date.

## Reporting arrangements

15. Victoria will provide performance reports in accordance with Table 1 during the operation of the Agreement. Each performance report is to contain a description of actual performance in the period to date against the project milestones.
16. Victoria will provide the Commonwealth with copies of all reports produced by HEA under the HESC Agreement.

## PART 5 – FINANCIAL ARRANGEMENTS

17. The Commonwealth will provide an estimated total financial contribution to Victoria of \$50 million in respect of this Agreement. All payments are GST exclusive.
18. The Commonwealth's funding contribution will not be reduced where Victoria secures funding from other activity partners.
19. The Commonwealth's and Victoria's estimated financial contributions to the operation of this Agreement, including through National Partnership payments to Victoria paid in accordance with *Schedule D – Payment Arrangements* of the IGA FFR, are shown in Table 2.

**Table 2: Estimated financial contributions**

(\$ million)	2017-18	2018-19	2019-2020	2020-2021	Total
<b>Total budget</b>	<b>15.0</b>	<b>20.0</b>	<b>25.0</b>	<b>40.0</b>	<b>100.0</b>
Less National Partnership Payments	10.0	10.0	17.5	12.5	50.0
Balance of non-Commonwealth contributions	5.0	10.0	7.5	27.5	50.0

20. Having regard to the agreed estimated costs of projects specified in this Agreement, the State of Victoria will not be required to pay a refund to the Commonwealth if the actual cost of the project is less than the agreed estimated cost of the project. Similarly, the State bears all risk should the costs of the project exceed the agreed estimated costs. The Parties acknowledge that this arrangement provides the maximum incentive for the State to deliver the project cost effectively and efficiently.

## Termination

21. If the Commonwealth provides notice of its intention to terminate this Agreement and Victoria and HEA are unable to reach agreement on alternative sources of funding for the project within 45 days of receiving the notice and as a result, Victoria terminates the HESC Agreement, the Commonwealth will, subject to Victoria's compliance with this Agreement:
- make any payments that were due, in accordance with this Agreement, before the Commonwealth provided notice of its intention to terminate; and
  - in addition to any prior payments that have been made, reimburse Victoria for any payments it makes to HEA for costs attributable to the termination of the HESC

Agreement by Victoria, pursuant to the termination for convenience clause of the HESC Agreement.

22. The Commonwealth's obligation to pay Victoria in accordance with clause 21:
  - (a) is subject to provision by Victoria of reasonable evidence of the costs incurred (including costs incurred by HEA pursuant to the HESC Agreement); and
  - (b) will not exceed a total of \$20,000,000.
23. The Commonwealth is not required to pay any amounts under clause 21 which would, in addition to any amounts paid or due, or becoming due, to Victoria under this Agreement, exceed the Commonwealth's total estimated financial contribution of \$50,000,000.
24. If Victoria terminates this Agreement or the HESC Agreement as a result of a change in policy of Victoria, the Commonwealth will not be obliged to make any further payments to Victoria.

## Refund

25. If at any time under the HESC Agreement Victoria is of the opinion that a Default Event has occurred and is considering requiring HEA to refund to it an amount of the Grant, Victoria will, subject to the Commonwealth's compliance with this Agreement:
  - (a) give the Commonwealth 10 business days notice to consult on the proposed refund amount; and
  - (b) have regard to the Commonwealth's position;before making a decision to require HEA to refund to it an amount of the Grant.
26. If Victoria requires HEA to refund to it an amount of the Grant due to the occurrence of a Default Event, Victoria will pay the Commonwealth an amount equal to one half of the refund amount paid to it by HEA.

## PART 6 – GOVERNANCE ARRANGEMENTS

### Enforceability of the Agreement

27. The Parties do not intend any of the provisions of this Agreement to be legally enforceable. However, that does not lessen the Parties' commitment to this Agreement.

### Variation of the Agreement

28. The Agreement may be amended at any time by agreement in writing by both the Parties.
29. Either Party to the Agreement may terminate their participation in the Agreement at any time by notifying the other Party in writing, noting the requirements of clause 21 of this Agreement.

### Delegations

30. The Commonwealth Minister may delegate the assessment of performance against milestones and the authorisation of related project payments to senior Commonwealth officials, having regard to the financial and policy risks associated with those payments.

## Dispute resolution

31. Either Party may give notice to the other Party of a dispute under this Agreement.
32. Officials of both Parties will attempt to resolve any dispute in the first instance.
33. If a dispute cannot be resolved by officials, it may be escalated to the relevant Ministers.

## Interpretation

34. For the purposes of this Agreement:
  - (a) **Default Event** has the same meaning as in the HESC Agreement;
  - (b) **Grant** means the grant amount to be funded by Victoria to HEA under the HESC Agreement;
  - (c) **material change** means a change or alteration to an agreement that affects the contractual obligations of the parties;
  - (d) **Participating Organisations** include:
    - i. Kawasaki Heavy Industries, Ltd (Japan)
    - ii. SPC, as agent for Electric Power Development Co., Ltd. (Japan)
    - iii. Marubeni Corporation (Japan)



The Parties have confirmed their commitment to this agreement as follows:

**Signed** for and on behalf of the Commonwealth  
of Australia by



**Senator the Honourable Michaelia Cash**  
Minister for Jobs and Innovation

Date:

28/05/18

**Signed** for and on behalf of the  
State of Victoria by



**The Honourable Philip Dalidakis MLC**  
Minister for Trade and Investment

Date:

26/4/18