

# NSW Mining Workplace Agreed Undertaking

**Department of Trade and Investment, Regional Infrastructure  
and Services**

**Centennial Myuna Pty Ltd**

**Sandvik Mining & Construction Redhead Pty Ltd**

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## 1. The Parties

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This is an agreement (“**the Undertaking**”) between the following parties;

- (a) **Department of Trade and Investment, Regional Infrastructure and Services** (ABN 72 189 919 072) Maitland Office, located at 516 High Street, Maitland 2320 representing the Crown in right of the State of New South Wales (“**Department**”);
- (b) **Centennial Myuna Pty Ltd** (ACN 101 508 981) a corporation whose registered address is Level 18, BT Tower, 1 Market Street Sydney 2000 (“**Centennial**”); and
- (c) **Sandvik Mining & Construction Redhead Pty Ltd** (ACN 000 596 403) a corporation whose registered address is 60-62 Qantas Drive, Eagle Farm, Queensland 4007 (“**Sandvik**”),

together Centennial and Sandvik are referred to in this Undertaking as the “**Companies**”.

## 2. Background

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### 2.1 The Companies

- (a) Myuna Colliery (“**the Colliery**”) is an underground coal mine situated at Wangi Wangi on Lake Macquarie, about 35km south of Newcastle. The Colliery has been operating for 25 years and uses the bord and pillar method of extraction.
- (b) Centennial is the owner and manager and nominated operator under the Coal Mine Health and Safety Act 2002 of the Colliery. Centennial’s parent company is Centennial Coal Company Limited.
- (c) Sandvik was previously known as Hydramatic Engineering Pty Ltd. Sandvik’s ultimate holding company is Sandvik AB, Sweden.
- (d) Hydramatic Engineering Pty Ltd developed and manufactured drilling and bolting machines under the brand ARO which are designed for rock reinforcement in underground mines and tunnels.

### 2.2 Incident

[REDACTED]

### 2.3 Acknowledgement

It is acknowledged that DTIRIS has alleged that the Companies have contravened provisions of the OHS Act.

### 2.4 Alleged contravention

- (a) DTIRIS alleged that Centennial failed to ensure the health, safety and welfare at work of its employees contrary to section 8(1) of the OHS Act.

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- (b) DTIRIS alleged that Sandvik failed to ensure the plant was safe and without risks to health when properly used contrary to section 11(1)(a) of the OHS Act and failed to provide, or arrange for the provision of, adequate information about the plant to persons to whom it was supplied to ensure its safe use, contrary to section 11(1)(b) of the OHS Act.
- (c) Without conceding that it has breached the OHS Act or any other Act, but acknowledging that DTIRIS alleges that Centennial has contravened section 8(1) of the OHS Act, Centennial agrees to enter into this Undertaking.
- (d) Without conceding that it has breached the OHS Act or any other Act, but acknowledging that DTIRIS alleges that Sandvik has contravened section 11(1)(a) and section 11(1)(b) of the OHS Act, Sandvik agrees to enter into this Undertaking.

## 2.5 Statement of Regret

- (a) Centennial and Sandvik regret that the incident occurred. The Companies and their management are committed to the health and safety of all persons in the workplace and those who use their equipment.
- (b) Remedial measures including modification of the mobile bolter for consumable storage and Safe Operating Procedure have been implemented.

## 2.6 Commitment to Health and Safety

- (a) To improve the health and safety of workers involved in roof bolting processes in underground coal mining the Companies seek to embody various actions and principles, through this Undertaking, which the Companies believe will improve safety in coal workplaces and provide a range a benefits to workers, industry and the NSW community.
- (b) The Companies do not seek commercial advantage from the Undertaking.
- (c) The intellectual property that is developed from the Undertaking will reside with DTIRIS on behalf of the NSW Government.
- (d) The Companies will not seek to communicate the benefits of the Undertaking to industry or the community except through actions agreed through this Undertaking and DTIRIS.
- (e) The Companies acknowledge that this Undertaking will be published on the DTIRIS website.

## 2.7 Benefits of the Undertaking

The parties believe that:

- (a) the Undertaking will enhance industry awareness and knowledge of hazards associated with the installation of roof bolts in underground coal mines;
- (b) this practical review of each underground coal mine in NSW will identify areas for improvement;
- (c) the Project will enable mines to make improvements that will reduce the likelihood and severity of bolting rig injuries; and
- (d) the Project will benefit workers as bolting practices will be safer across the industry.

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## 2.8 Aims of the Project

- (a) The aim of the Project is to increase industry awareness and focus on underground mobile machine mounted bolting equipment hazards and also to improve bolting practices throughout the industry, particularly in view of MDG35.1, Australian Standard 4024.1; 2006 Safety of Machinery and the Occupational Health and Safety Regulation 2001 Chapter 5 and the incident that lead to this Undertaking. It is envisaged that the Project will take up to 18 months to complete.
- (b) The Project will broadly consist of an industry review of bolting incident databases to identify key areas of concern. From this information, an evaluation tool will be developed focusing on the key areas of safety concern and it will be applied to each participating NSW underground mine.
- (c) A sample of bolting equipment and practices at each participating underground coal mine will be observed, and an individual mine report and a denatured industry baseline report will be developed. It is envisaged that independent persons will be commissioned to carry out the work required for the Project.

**The parties agree as follows:**

## 3. Undertaking

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### 3.1 Interpretation

Unless the context requires otherwise, in this Undertaking:

- (a) words in the singular include the plural and vice versa;
- (b) headings are for convenience only and do not affect the interpretation of this Undertaking;
- (c) the meaning of general words is not limited by specific examples introduced by “including” or “for example” or similar expressions;
- (d) references to persons include bodies corporate, government agencies and vice versa;
- (e) nothing in this Undertaking is to be interpreted against a party solely on the ground that the party put forward this Undertaking or any part of it;
- (f) a reference to a clause, annexure or schedule is a reference to a clause, annexure or schedule to this Undertaking;
- (g) a reference to a right or obligation of any two or more persons confers that right, or imposes that obligation, as the case may be, jointly and severally
- (h) a reference to “\$”, “A\$” or “dollars” is a reference to the currency of Australia; and
- (i) a reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it and all regulations and statutory instruments issued under it;
- (j) where an expression is defined, any other grammatical form of that expression has a corresponding meaning.

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## 3.2 Definitions

Unless the context requires otherwise, in this Undertaking the following definitions apply:

**Background IP** means Intellectual Property of a party that is made available by that party for the purposes of this Undertaking which is in existence prior to the date of this Undertaking or which is brought into existence independently of the Project.

**Business Day** means a day on which banks are open for general banking business, other than a Saturday, Sunday or a public holiday in New South Wales or Queensland.

**Deliverables** means the Project deliverables as set out in clause 4.3.

**Deputy Director General** means the Deputy Director General Resources and Energy of DTIRIS or his or her delegate as notified to the Companies.

**Intellectual Property** means any registered or unregistered intellectual property rights including any:

- (a) patents or rights concerning any discovery, invention, process, process improvement, procedure, manufacturing method, technique or information regarding the chemical composition of materials (whether patentable or not);
- (b) trade marks, business names or trading styles (whether registered or not);
- (c) copyright material and similar or neighbouring rights;
- (d) registered or registrable designs;
- (e) other proprietary information concerning engineering processes; and
- (f) eligible layouts or protectable computer programs,
- (g) as well as any applications for or any right to seek registration of any intellectual property, but does not include moral rights.

**OHS Act** means the *Occupational Health and Safety Act 2000* (NSW).

**Project** means the industry review of bolting incident databases to identify key areas of concern, as more particularly described in this Undertaking.

**Project Co-ordinator** means the person appointed under clause 4.2.

**Project IP** means Intellectual Property developed in the course of carrying out the Project, excluding Background IP.

**Project Personnel** means the persons appointed by the Companies to undertake the Project.

**Project Steering Committee** means as described in clause 6.2.

**Technical Working Group** means as described in clause 6.3.

## 3.3 Commencement of Undertaking

This Undertaking will commence on the date that the last party signs this Undertaking.

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## 3.4 Liability of the Companies

- (a) As between Centennial, Sandvik and DTIRIS, any obligation or liability imposed on or benefit given to Centennial and Sandvik under this Undertaking is an obligation or liability imposed on or benefit given to each of them severally as well as both of them jointly.
- (b) As between Centennial and Sandvik only:
  - (i) any obligation or liability imposed on or benefit given to them under this Undertaking is to be equally shared as to 50% and 50% between them (the “**Proportions**”);
  - (ii) any obligation or liability imposed on or benefit given to them under this Undertaking shall in every case be several in an amount equal to their respective Proportions and shall not be, or be construed to be, joint or joint and several;
  - (iii) each of them (the “**Indemnifying Party**”) shall indemnify and hold harmless the other (the “**Indemnified Party**”) if at any time the Indemnified Party becomes liable to DTIRIS under this Undertaking to an extent greater than its Proportion. The Indemnifying Party shall indemnify and account to the Indemnified Party such that each of them shall share such liability in proportion to the Proportions.

## 3.5 Binding

The parties intend that this Undertaking is binding and enforceable.

## 4. The Project

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### 4.1 Project activities

The Companies agree to undertake or procure to be undertaken the following Project activities:

- (a) subject to being provided with access to the relevant databases, review bolting incident databases kept by DTIRIS and Coal Services Pty Limited to identify the top key areas of safety concern resulting from underground bolting in coal mines that covers approximately 80% of identified problems;
- (b) develop an evaluation tool using the top key areas of safety concern identified from the database review;
- (c) subject to the cooperation of the owners and/or operators of the various NSW mine sites to enable access to the mine sites, mine site equipment and personnel, apply the evaluation tool to review a sample of bolting equipment and practices in all NSW underground coal operations. In particular:
  - (i) review the use of bolting equipment on mobile bolters and/or bolter miners at all (currently 35) participating NSW operating underground coal mines;
  - (ii) include observation of the equipment in use underground;
  - (iii) at least two operational bolting sections will be reviewed as a sample for each mine. In the case of a mine that only has bolter miners, the newest and oldest machines may be reviewed, if available on the day. In the case where a mine has only mobile bolters, again, the newest and oldest machines may be reviewed. The

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bolters selected shall be such that they are from the range of bolting rigs in use at the mine (e.g. oldest, newest, two handed function, one handed operation, two person operation). The intention is not to do two the same. If a wide range of bolting rigs are used then more than two may need to be evaluated;

- (iv) include interviews with at least three people at each mine visited such as; a management team member responsible for bolting operations, a person responsible for the maintenance and service aspects of bolting operations, and a bolter operator;
- (d) assess the results of the review and develop an industry baseline of data;
- (e) provide DTIRIS with a written report of the aggregated, denatured industry results from the review (the “**industry report**”). The industry report is an aggregate of the review results of all the industry participants and will contain no site identifying information;
- (f) provide a written report to individual operations on outcomes of the review at their site (“**individual report**”); and
- (g) communicate progress and outcomes of the Project to the industry.

It is acknowledged and agreed that the Companies’ ability and obligation to undertake these activities is dependent upon and subject to the cooperation of the owners and/or operators of the various NSW mine sites to enable access to their respective sites, mine site equipment and personnel. The Companies will not have failed to comply with their obligations under this Undertaking to the extent that such failure occurs as a result of the Companies not being provided with access to another entity’s mine site, mine site equipment or personnel.

## 4.2 Project Personnel and Project Co-ordinator

- (a) The Companies agree to engage Project Personnel to carry out the Project activities as set out in clause 4.1, who are:
  - (i) suitably qualified, skilled and experienced;
  - (ii) acceptable to the Project Steering Committee; and
  - (iii) covered by appropriate professional indemnity, public liability and workers compensation or accident insurances and can demonstrate such coverage to the Deputy Director General, as requested.
- (b) The Project Personnel will:
  - (i) bring the results of the database review to the Technical Working Group, which will provide direction to them regarding the nature and detail required of the evaluation tool; and
  - (ii) table a draft of the evaluation tool for review by the Technical Working Group. When the tool is developed to the Technical Working Group’s satisfaction, it will be communicated to industry participants. Prior to commencement of the site observations the evaluation tool should be piloted at one Centennial Coal mine site and one other mine site by the Project Personnel.
- (c) The Companies remain responsible for the performance of the Project if they subcontract the performance of any part of the Project.

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- (d) The Companies remain responsible for the actions of the Project Personnel.
- (e) The Companies agree to engage a Project Co-ordinator who will be responsible for co-ordinating the activities of the Project Personnel and who will be responsible for seeing that the Project activities are carried out.

## 4.3 Project Deliverables

The Companies must provide or procure the provision of the following deliverables from the Project (the “**Deliverables**”):

- (a) a communication strategy for the project implementation and outcomes to be provided to the Project Steering Committee;
- (b) an Action Plan to be provided to the Project Steering Committee;
- (c) a database review report to be provided to the Technical Working Group that identifies key areas of concern;
- (d) the development of an evaluation tool for use on all NSW underground coal mine sites;
- (e) a set of principles and protocols for the conduct of the review site visits and the management of the data and information collected during the Project;
- (f) a written report to be provided to each participating coal mine which includes the review outcomes at their mine; and
- (g) a written report to be provided to DTIRIS of the aggregated, denatured industry results from the review.

## 4.4 Timing of Project

The Project will be conducted in four stages over 18 months from the date of the Undertaking.

- (a) **Stage one** is the Project commissioning. Commissioning includes defining the Project brief, developing an Action Plan, communicating it to the industry and recruiting the required persons to undertake the work. This stage will take approximately three months.
- (b) **Stage two** is carrying out the database review and developing the evaluation tool, along with a pro-forma for reporting results of the reviews. This stage will take approximately three months.
- (c) **Stage three** is conducting the site underground reviews. Stage three is expected to be the most time consuming and will take in the order of nine months. Estimating a day and a half on site per mine (35 mines, and includes results write up) across NSW, at times that suit the various operations.
- (d) **Stage four** is completing all reporting requirements. There will be updates required regularly during the entire Project with the Project Steering Committee, Technical Working Group or its delegate. However, the reporting of results will be time consuming as each mine will require individual reports. This may occur as the Project progresses or may be completed after all have been reviewed. Regardless, it is expected to take in the order of three months.

If resources allow, a follow up with the participating mines and / or a communications strategy may be carried out at completion of Stage four of the Project.

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## 5. Reporting, Communications and Intellectual Property

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### 5.1 Reporting Requirements to Participating Sites and Industry

- (a) DTIRIS and the Companies will use the information collected during the reviews for the benefit of the industry and the NSW community.
- (b) DTIRIS will provide each participating mine site with a copy of the industry report.

### 5.2 Communications

- (a) The parties agree that DTIRIS will be the source of all public information and reporting related to the Project to the industry. Information on progress will be provided to DTIRIS by the Project Co-ordinator.
- (b) To ensure public transparency, DTIRIS will determine how the Undertaking will be communicated to industry and the community.
- (c) Information communicated may include this Undertaking in full, project management documentation and agreed deliverables from the undertaking or communication that the Companies have failed to meet their obligations under this Undertaking.
- (d) Before making any public statement (whether in a media statement, press release or otherwise) about this Undertaking or the Project each party must consult with the other parties about the nature and content of that public statement.
- (e) By way of public notice DTIRIS will communicate the commencement and completion of the Project.
- (f) The Project Personnel to undertake work will be authorised to communicate with sites and others for the purpose of organising details of the site reviews.

### 5.3 Ownership of Intellectual Property

- (a) Each party retains ownership of any Background IP that it makes available for the purposes of this Undertaking.
- (b) The Companies will use all reasonable endeavours to ensure that all Project IP will vest immediately upon its creation in DTIRIS on behalf of the Crown.
- (c) This clause 5.3 survives the expiration or earlier termination of this Undertaking.

### 5.4 Accounting Records

- (a) Following completion of the Project and delivery of the last of the Deliverables, the Companies will provide the Project Steering Committee with auditable accounting records demonstrating expenditure of a total of \$500,000.00 for the purposes of the Project upon request.
- (b) Should the records indicate that a lesser amount has been expended the Companies and DTIRIS will agree how the remaining funds will be expended, including by way of a transfer to DTIRIS of the remaining funds for use or contribution towards any other health and safety project or initiative for the underground coal mining industry. Any such funds to be transferred to DTIRIS must be transferred by the Companies within 7 days of a written request by the Director General.

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## 6. Management of Project

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### 6.1 Role of the Deputy Director General

- (a) The Deputy Director General will seek advice from the Project Steering Committee on;
  - (i) progress and accounting of expenditure;
  - (ii) quality of Deliverables;
  - (iii) expenditure;
  - (iv) communication to industry and community.
- (b) The Deputy Director General has the right of veto over the Project Steering Committee decisions if, in his or her view, acting reasonably, progress on the Project is not being achieved in a timely manner.
- (c) Subject to paragraph (d), the Deputy Director General may direct the Companies, in writing, how funds are to be applied during the Project including how residual funds, if any, are applied or if, in the Deputy Director General's opinion, acting reasonably, funds are not being suitably accounted for.
- (d) If the Deputy Director General forms the view, acting reasonably that:
  - (i) progress is not being achieved in a timely manner
  - (ii) agreed expenditure of funds is not being suitably accounted for; or
  - (iii) the Companies are not meeting their obligations under this agreement,the Deputy Director General may notify the Companies of this view.
- (e) Upon receipt of a notice from the Deputy Director General under paragraph (d), the Companies must respond to the Deputy Director General within 30 days, which response must set out how the matter as notified to them, will be rectified or addressed.
- (f) If the Companies do not respond within the timeframe required in paragraph (e) or if the Deputy Director General, acting reasonably, forms the view that the response will not rectify or does not satisfactorily address the matter, the Deputy Director General may request the Companies to transfer unexpended funds to DTIRIS within 7 days.
- (g) After seeking advice from industry stakeholders the Deputy Director General may direct how funds transferred to DTIRIS are be used in achieving the desired outcomes of the Project or how such funds are to be used towards any other health and safety project or initiative for the underground coal mining industry or communicating to the industry and community.
- (h) If a request to transfer funds to DTIRIS under paragraph (f) is made by the Deputy Director General the Deputy Director General will communicate with the industry and NSW community, as he or she sees fit.

### 6.2 Project Steering Committee

- (a) A Project Steering Committee will be established to oversee the conduct of the Project. The Project Steering Committee may meet face to face or by using telecommunications or other communications devices.

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- (b) The Project Steering Committee will report to the Deputy Director General.
- (c) Membership of the Project Steering Committee will include and be limited to one person from each of:
  - (i) Centennial;
  - (ii) Sandvik;
  - (iii) CFMEU – Mining and Energy Division; and
  - (iv) DTIRIS.
- (d) Decisions of the Project Steering Committee will be unanimous.
- (e) In the event that a unanimous decision is unable to be reached by the members of the Project Steering Committee, the matter upon which the decision is required is to be referred to the Deputy Director General for his or her decision. A decision of the Deputy Director General will be a decision of the Project Steering Committee.
- (f) The Project Steering Committee may approve the appointment of Project Personnel. The Project Steering Committee may not disapprove any Project Personnel who is appropriately qualified and experienced in his or her relevant field of endeavour or expertise to conduct the work.
- (g) The Project Steering Committee will review and may approve the Action Plan.
- (h) The Project Steering Committee will decide when the Deliverables and objectives of the Project are met.
- (i) The Project Steering Committee may recommend how to apply funds available for the conduct of the Project.
- (j) If internal secondments are made to undertake the Project, their services must be charged at cost to the relevant Company (not at consulting rates).
- (k) The Project Steering Committee will monitor and agree on expenditure throughout the Project.
- (l) The Project Steering Committee has the right to request any relevant documentation from the Companies.
- (m) DTIRIS will convene meetings of the Project Steering Committee.
- (n) The Project Steering Committee may seek advice from a Technical Working Group.

## **6.3 Technical Working Group**

- (a) A Technical Working Group will be established to provide advice to the Project Steering Committee on specific health and safety matters relating to bolting and the quality of Deliverables.
- (b) Membership of the Technical Working Group will include nominations from and be limited to two persons from each of:
  - (i) Centennial;
  - (ii) Sandvik;

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- (iii) CFMEU – Mining and Energy Division; and
- (iv) DTIRIS.
- (c) Decisions of the Technical Working Group will be unanimous.
- (d) In the event that a unanimous decision is unable to be reached by the members of the Technical Working Group, the matter upon which the decision is required is to be referred to the Director General for his or her decision. A decision of the Director General will be a decision of the Technical Working Group.
- (e) DTIRIS will convene meetings of the Technical Working Group.

## 6.4 Reporting Requirements

- (a) The Companies will each nominate a single contact officer for the Project with which DTIRIS and the Project Steering Committee will communicate.
- (b) The contact officers will report to the Project Steering Committee.
- (c) The Project Co-ordinator will report on a regular basis to the contact officers on progress.
- (d) The nominated contact officers will also report on Project outcomes and expenditure to the Project Steering Committee.

## 6.5 Role of the DTIRIS

DTIRIS agrees to:

- (a) provide the Companies and the Project Personnel with access to and provision of data and information held by DTIRIS and procure that the Companies and the Project Personnel are provided with access to and provision of data and information held by Coal Services Pty Limited, both as reasonably required for the Project;
- (b) provide reasonable access to technical expertise within DTIRIS for use by the Project Steering Committee and the Technical Working Group;
- (c) convene meetings of, co-ordinate the activities of, and provide administrative support to, the Project Steering Committee and the Technical Working Group;
- (d) seek the cooperation of underground coal mine owners and/or operators for the Project so as to facilitate the Companies access to the mines sites, mine site equipment and personnel;
- (e) communicate the Project to industry and the community; and
- (f) pay its own costs relating to participation in the Project.

## 6.6 Role of the Companies

Each of the Companies agrees to:

- (a) provide \$250,000.00 in funds for the Project;
- (b) identify or nominate a single officer as a point of contact and identify a Project Co-ordinator;
- (c) engage qualified, skilled and experienced persons to conduct the work and manage the Project and carry out the Project activities.

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- (d) provide or procure the provisions of an Action Plan to the Project Steering Committee for approval and report on progress and expenditure to the Project Steering Committee.
- (e) participate in the Project Steering Committee and the Technical Working Group at their own cost.
- (f) account for how funds are applied in the conduct of the Project to the Project Steering Committee. This includes amounts applied if secondments approved by the Project Steering Committee are used instead of contractors.

## 7. GST

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### 7.1 Construction

In this clause 7:

- (a) “**GST Law**” has the same meaning given to that expression in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth); and
- (b) words and expressions which are not defined in this Undertaking but which have a defined meaning in the GST Law have the same meaning as in the GST Law.

### 7.2 Payments GST exclusive

Unless otherwise expressly stated, all payments, costs or other sums payable under this Undertaking are exclusive of GST.

### 7.3 Payment of GST

If GST is payable by a supplier or by the representative member for a GST group of which the supplier is a member, on any supply made under this Undertaking, the recipient will pay to the supplier an amount equal to the GST payable on the supply.

### 7.4 Timing of GST payment

The recipient will pay the amount referred to in clause 7.3 in addition to and at the same time that the consideration for the supply is to be provided under this Undertaking. If a relevant payment is made and received by the supplier and an additional amount has not been paid by the recipient pursuant to clause 7.3, and it is at any time subsequently determined by the supplier that there is a liability to GST in respect of the supply for which the payment has been made, the recipient must pay the additional amount to the supplier on demand.

### 7.5 Tax invoice

The supplier must deliver a tax invoice or an adjustment note to the recipient before the supplier is entitled to payment of an amount under clause 7.3. The recipient can withhold payment of the amount until the supplier provides a tax invoice or an adjustment note, as appropriate.

### 7.6 Adjustment event

If an adjustment event arises in respect of a taxable supply made by a supplier under this Undertaking, the amount payable by the recipient under clause 7.3 will be recalculated to reflect the

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adjustment event and a payment will be made by the recipient to the supplier or by the supplier to the recipient as the case requires.

## 7.7 Reimbursements

Where a party is required under this Undertaking to pay or reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of:

- (a) the amount of the expenses or outgoing less any input tax credits in respect of the expense or outgoing to which the other party, or to which the representative member for a GST group of which the other party is a member, is entitled; and
- (b) if the payment or reimbursement is subject to GST, an amount equal to that GST.

## 8. General

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### 8.1 Variations

- (a) Variations to any aspects of the Project or this Undertaking may be sought, in writing, to the Deputy Director General by either or both of the Companies.
- (b) The Deputy Director General will seek the advice of the Steering Committee on the merits of the variation. If consensus is provided by the Steering Committee, the Deputy Director General will consider the variation.
- (c) The Deputy Director General will respond to the application for variation within 21 days of receipt with a determination.
- (d) If unsatisfied with the determination the Companies may jointly or separately seek a review of the determination by the Deputy Director General with 21 days of receipt.
- (e) The Deputy Director General's decision on the review will be final.

### 8.2 Termination of Undertaking

This Undertaking may be terminated by DTIRIS at any time by notice in writing to the Companies, without the need to give reasons, and with effect from the date stated in the notice.

### 8.3 Notices

- (a) A notice under this Undertaking must be in writing and sent to the address of the relevant party as set out below.
- (b) The particulars for delivery of notices under this Undertaking are:
  - (i) If to Centennial:  
Address: Level 18, BT Tower, 1 Market Street, Sydney NSW 2000  
Fax: (+612 9261 5533)  
Attention: Company Secretary.
  - (ii) If to Sandvik:  
Address: 60-62 Qantas Drive, Eagle Farm QLD 4009  
Fax: 07 3367 7571

# NSW Mining Workplace Agreed Undertaking

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Attention: Company Secretary.

(iii) If to DTIRIS:

Address: 516 High Street, Maitland NSW 2320

Fax: 02 4914 0089

Attention: Mark Freeman, Investigation Unit.

- (c) A notice under this Undertaking will be deemed to be served:
- (i) in the case of delivery in person – when delivered to the recipient’s address for service and a signature received as evidence of delivery;
  - (ii) in the case of delivery by post – within four Business Days of posting;
  - (iii) in the case of delivery by facsimile – at the time of dispatch if the sender received a transmission report which confirms that the facsimile was sent in its entirety to the facsimile number of the recipient.
- (d) Notwithstanding the provisions of this clause 8.3, if delivery or receipt of a communication is on a day which is not a Business Day in the place to which the notice is sent or is later than 5pm (local time in that place), it will be deemed to have been duly given at 9am (local time in that place) on the next Business Day in that place.

## **8.4 Entire Agreement**

This Undertaking records the entire agreement between the parties and supersedes all any prior negotiation, conduct, arrangement, understanding or agreement, express or implied, with respect to the subject matter of this Undertaking.

## **8.5 Counterparts**

This Undertaking may be executed in any number of counterparts which together will constitute one instrument. A party may execute this Undertaking by signing any counterpart.

## **8.6 Governing law and jurisdiction**

This Undertaking is governed by the laws of New South Wales. Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales and of the courts having jurisdiction in appeal from them.

Executed as an agreement in Sydney:

# NSW Mining Workplace Agreed Undertaking

By entering into this Undertaking the signatory warrants that the signatory is duly authorised to execute this Agreement on behalf of Centennial Myuna Pty Ltd

Signed for and on behalf of **Centennial Myuna Pty Ltd** by its authorised signatory:



Signature of authorised signatory

**STEVE BRACKEN**

Name of authorised signatory

15 February 2012

Date

Before me:  


Signature of Witness

Louise Baldwin

Name of Witness

By entering into this Agreement the signatory warrants that the signatory is duly authorised to execute this Agreement on behalf of Sandvik Mining & Construction Redhead Pty Ltd

Signed for and on behalf of **Sandvik Mining & Construction Redhead Pty Ltd** by its authorised signatory:



Signature of authorised signatory

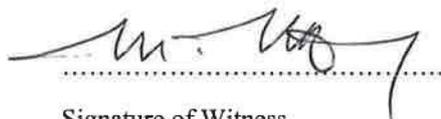
ROWAN McROSE

Name of authorised signatory

14-III-12

Date

Before me:



Signature of Witness

MANUSE MACONEY

Name of Witness

# NSW Mining Workplace Agreed Undertaking

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**By entering into this Agreement the signatory warrants that the signatory is duly authorised to execute this Agreement on behalf of Department of Trade & Investment, Regional Infrastructure and Services for and on behalf of the State of New South Wales.**

**Signed for and on behalf of the Department of Trade & Investment, Regional Infrastructure and Services for and on behalf of the State of New South Wales by its authorised signatory:**

Mr Mark Duffy

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Name

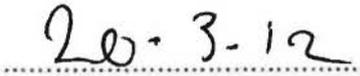


Signature

Deputy Director General Resources and Energy

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Title



Date

