
DEED OF REIMBURSEMENT OF COSTS

July 2012

Pike River Coal Limited (in Receivership)

New Zealand Police

Solid Energy New Zealand limited

PARTIES

- (1) **Pike River Coal Limited (In Receivership) (PRC)**
- (2) **Her Majesty the Queen** in right of New Zealand acting by and through the **New Zealand Police**, an instrument of the Crown initially established under the Police Force Act 1886 and continued under s 7 of the Policing Act 2008 (**Police**)
- (3) **Solid Energy New Zealand Limited (Solid Energy)**

INTRODUCTION

- A. Police and PRC entered into an agreement for the handover of mine stabilisation operations at the Pike River Mine (**Handover Agreement**) dated 8 March 2011.
- B. The Handover Agreement included terms requiring PRC to reimburse Police for certain out-of-pocket costs paid by Police to third parties in connection with the attempted rescue, recovery, stabilisation and related activities at Pike River Mine (**Reimbursement Obligation**) and to transfer that obligation with the mining permit for Pike River Mine.
- C. On 10 May 2012 PRC, Solid Energy and its subsidiary Pike River Mine (2012) Limited executed a conditional Sale and Purchase Agreement in relation to PRC's assets (**SPA**).
- D. It is a condition of the SPA that Solid Energy will enter into a reimbursement deed in favour of Police in respect of the Reimbursement Obligation in a form acceptable to Solid Energy (in sole discretion) and PRC (acting reasonably).
- E. On 10 May 2012 the Crown and Solid Energy entered into a preliminary agreement by letter in relation to body recovery, which required them to enter into a deed that records those arrangements, including further detail and process requirements as appropriate (**Letter Agreement**). The Crown and Solid Energy intend to execute a Deed Relating to Body Recovery at the Pike River Coal Mine (**Recovery Deed**), to formally record those arrangements, which will apply if and when the SPA becomes unconditional.
- F. Solid Energy has offered to make a one-off payment of \$750,000 (**Reimbursement Sum**) to Police in full and final settlement of the Reimbursement Obligation.
- G. In order to secure early and certain repayment, and to ensure that the Reimbursement Obligation is not an obstacle to Solid Energy agreeing to enter into the Recovery Deed, Police wish to accept the Reimbursement Sum in accordance with the terms of this Reimbursement Deed.

DEED

1 Definitions and Interpretation

1.1 Definitions

In this Reimbursement Deed, unless the context otherwise requires:

- (a) Capitalised terms have the meaning ascribed to them in the Introduction to and clauses of this Reimbursement Deed;

- (b) **Business Day** means a day (other than a Saturday or Sunday) on which registered banks are open for general banking business in Wellington; and
- (c) **Effective Date** means the date of execution of the Recovery Deed.

1.2 General construction

In this Reimbursement Deed, unless the context otherwise requires:

- (a) a reference to a clause, schedule or annexure is a reference to a clause of, schedule to, or annexure to, this Reimbursement Deed;
- (b) references to the singular include the plural and vice versa; and
- (c) references to any statutory provision are to statutory provisions in force in New Zealand and include any statutory provision which amends or replaces it and any by-law, regulation, order, statutory instrument, determination or subordinate legislation made under it.

1.3 Interpretation

No term or condition of this Reimbursement Deed is to be construed adversely to a party solely on the ground that the party was responsible for the preparation of this Reimbursement Deed or that provision.

1.4 Headings and table of contents

In this Reimbursement Deed, the table of contents, headings and words in bold are inserted for convenience and do not affect the interpretation of this Reimbursement Deed.

2 Term

- 2.1 This Reimbursement Deed commences on the Effective Date and will remain in force until terminated in accordance with clause 4.

3 Reimbursement

- 3.1 Solid Energy agrees to pay, into a bank account to be nominated by Police in writing within 2 Business Days of the Effective Date, the sum of \$750,000.00 (**Reimbursement Sum**).
- 3.2 Payment of the Reimbursement Sum in accordance with clause 3.1 will be made in cleared funds on the later of 5 Business Days after the Effective Date and close of business on 2 July 2012.
- 3.3 Police will accept the Reimbursement sum, paid in accordance with clauses 3.1 and 3.2, in full and final settlement of the Reimbursement Obligation.
- 3.4 Police agrees that upon payment of the Reimbursement Sum in accordance with clauses 3.1 and 3.2 PRC will be deemed to be released from the Reimbursement Obligation.

4 Termination

4.1 Termination date

This Reimbursement Deed will terminate on the date of payment of the Reimbursement Sum by Solid Energy in accordance with clauses 3.1 and 3.2.

4.2 Effect of Termination

On termination of this Reimbursement Deed it will be of no further force or effect, except that clauses 3.3 and 3.4 will survive termination and clauses 5.3 and 5.4 will survive termination for a period of two years from the Effective Date.

5 General

5.1 Amendment

This Reimbursement Deed may only be amended by written agreement between the parties. Any amendment must be recorded in a deed of variation of this Reimbursement Deed.

5.2 Assignment

A party may not assign or transfer all or any of its rights, duties or obligations under this Reimbursement Deed without the prior written consent of the other parties.

5.3 Publicity

The parties acknowledge that the existence and terms of this Reimbursement Deed may be referred to in the Recovery Deed and that, before making or authorising any media release or other public announcement relating to or referring to the matters dealt with in this Reimbursement Deed, any party making or authorising such media release or other public announcement will inform the other parties.

5.4 Official Information Act 1982

The parties acknowledge that the Official Information Act 1982 applies to this Reimbursement Deed.

5.5 Severability

If any provision of this Reimbursement Deed is, or becomes, unenforceable, illegal or invalid for any reason, the relevant provision will be deemed to be modified to the extent necessary to remedy such unenforceability, illegality or invalidity or if this is not possible then such provision will be severed from this Reimbursement Deed, without affecting the enforceability, legality or validity of any other provision of this Reimbursement Deed.

5.6 Counterparts

This Reimbursement Deed may be executed in any number of counterparts, each of which shall be deemed an original and all of which together will constitute one and the same instrument. Counterparts delivered by facsimile transmission or by e-mail delivery shall create a valid and binding obligation of the party executing such counterpart.

5.7 Entire agreement

This Reimbursement Deed constitutes the entire understanding and agreement of the parties relating to the subject matter of this Reimbursement Deed and supersedes and extinguishes all prior agreements and understandings between the parties relating to such subject matter.

5.8 Costs

Each party must pay its own legal and other costs of and incidental to the preparation, negotiation, execution and completion of this Reimbursement Deed.

5.9 Governing law

This Reimbursement Deed is governed by the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand.

Executed as a deed at _____ this _____ day of July 2012

For and on behalf of
Pike River Coal Limited (In Receivership)
by:

Receiver's Signature

Print Name

In the presence of:

Signature

Name and location

By the **Commissioner of the New Zealand
Police:**

Signature

Print Name

In the presence of:

Signature

Name and location

For and on behalf of
Solid Energy New Zealand Ltd by:

Dr Don Elder
Chief Executive

In the presence of:

Signature

Name and location