

Undertaking to the Executive Director, SafeWork SA given for the purposes of part 11 of the *Work Health and Safety Act*.

by

**METECNO PTY LIMITED TRADING AS BONDOR**

**ABN 44 096 402 934**

## Section 4 - General Information

### GI(a) details of the person proposing the undertaking

<b>Nominated person</b>	Ken Broadfoot
<b>Street address</b>	c/- Kanji Group Pty Ltd Level 33, 88 Phillip Street Sydney NSW 2000
<b>Mailing address</b>	c/- Kanji Group Pty Ltd Level 33, 88 Phillip Street Sydney NSW 2000
<b>Telephone</b>	02 9251 4244                      Mobile:
<b>Email address</b>	
<b>Legal structure</b>	Australian proprietary company limited by shares
<b>Type of business</b>	Manufacturer of insulated panel
<b>Commencement date</b>	1950s
<b>Workers in SA</b>	Full time 19                      Part time 1 casual
<b>Products and services</b>	Fabrication of insulated fire resistant and PIR cored wall, ceiling, architectural and roofing panels and doors
<b>Comments</b>	<p>Metecno Pty Ltd (Metecno) predominantly operates through its business name Bondor across Australia (Bondor). Other businesses operated by Metecno are Metecno PIR and National Polystyrene Systems.</p> <p>Metecno's head office is located in Queensland. Metecno has branches in all of the Australian states which are operated locally but under the national umbrella. Each branch has a manager and team of employees. Metecno employs a national OHSM.</p> <p>Bondor has developed a wide range of insulated panels and panel systems over time to meet the needs of the construction industry in various environmental conditions found in Australia and for various uses including cold storage, warehouses, factories, agricultural and residential applications. The panels have solar, fire and antibacterial capabilities.</p> <p>At its premises at Salisbury South, the company makes insulated panels for the cool-room industry, including doors for freezers and cool-rooms. It also makes roofing panels for the domestic industry.</p> <p>Bondor also offers installation services.</p>

### GI(b) the details of the alleged contravention

1. SafeWork SA has alleged that Bondor has contravened sections 19(1) and 32 of the *Work Health and Safety Act 2012* (the Act) by failing to ensure, so far as reasonably practicable, that it maintained safe guarding on the angle punch machine.

### GI(c) details of the events surrounding the alleged contravention, eg, incident details

1. The John Heine Punch ("JHP"), commonly referred to as the "angle punch machine", was used to cut arrow-shaped angle pieces ("corners") out of a strip of aluminium. The corners were used in the construction of doors.
2. The incident occurred on 18 January 2013, at the company's premises at Salisbury South. A general factory hand employed by Bondor was operating the JHP. The worker was using the JHP to cut angle pieces from a strip of aluminium.

3. At the time of the incident, the die on the machine was surrounded by guarding. The guarding could be moved and lifted up without the use of any tooling. The guard had been installed with an interlock device, however, the device did not operate to shut down the machine when the guard was lifted from the closed position. The guard had some spaces at its ends of sufficient size for a hand or fingers to enter the die area.
4. As he neared the end of the strip, he lifted up part of the guard on the JHP to feed the last piece of aluminium into the machine. Two fingers from his left-hand slipped beneath the die as he activated it using the foot pedal.

**GI(d) an acknowledgement that an alleged contravention has occurred**

1. Bondor acknowledges that it is alleged by SafeWork SA that a contravention of sections 19(1) and 32 of the Act has occurred.

**GI(e) the details of any injury that arose from the alleged contravention**

1. The factory hand sustained a partial amputation of the index and middle fingers. An ambulance was called immediately and first aid assistance was provided until the ambulance arrived and took the factory hand to hospital.

**GI(f) the details of any enforcement notices issued that relate to the alleged contravention**

Notices received:

No

Yes (provide details)

Date issued	Notice type	Notice number	Contravention	Action taken to respond to notice
21/01/2013	Prohibition	WHSPN 301805	Section 19(3)(b) of the Act	Post-incident, Bondor replaced the guarding on the JHP with a new guard made of Perspex which was fixed in place with bolts and screws so that it required a tool to be removed. The guard was lowered so that a person's hands or fingers could not pass the guarding when closed, and the interlock device was replaced with one that functioned to stop the machine when the guard was lifted.
21/01/2013	Improvement	WHSIN 303253	Section 19(3)(c) of the Act	Post incident, Bondor created a Maintenance position and introduced a machine maintenance program

**Gl(g) a statement of assurance about future work health and safety behaviour**

1. Bondor conducted a review of the existing safety procedures for the JHP and fixed the punch to the floor and introduced new guarding and signage. Bondor also reviewed and updated the standard operating procedure (SOP) for the JHP and 12 other machines, placed copies of the SOPs at each machine, amended maintenance and training schedules, provided refresher training and operator assessments on each machine, revised its risk assessment procedure for the JHP and other machines and upgraded the safety induction program.
2. Bondor retains documentary evidence of the upgrades, refresher induction conducted in February 2013 and refresher training provided to workers and will make the documents available to the regulator.
3. Bondor commits to SafeWork to discharge its obligations under the Act now and in the future. This commitment is reinforced by:
  - a. the rectifications referred to in section Gl(m) below
  - b. the undertakings set out in this document.

**When an alleged contravention is associated with an injury/illness**

**Gl(h) The details of the type of workers compensation provided (if the injured person is a worker of the person)**

1. The injured person remained off work for 15 days until 9 February 2013. The injured person was then provided with suitable duties until 29 May 2015 when full duties were resumed. The injured person received all workers compensation entitlements during this period.

**Gl(i) details of the support provided to the injured person to overcome the injury/illness**

**The injured person is:**

- an employee of the entity
- a self-employed person
- other (please specify)
- not applicable

**Support provided to the injured person/s or injured person/s family:**

1. Upon being notified of the incident, the State Manager, who was off site at a meeting, immediately proceeded to the hospital and stayed with the factory hand for around 9.5 hours until the factory hand was taken into surgery.
2. The State Manager visited the factory hand at the hospital on the 2 days following the admission. Thereafter, the State Manager spoke with the factory hand on each day of the stay in hospital. The State Manager also visited the factory hand at home on a number of occasions after the hospital stay before the return to work.
3. The State Manager was also in constant contact with the factory hand's mother.
4. The factory hand returned to work on 9 February 2013 on restricted duties.
5. The factory hand was able to return to pre-injury duties on 29 May 2013 and has remained performing those duties.

**Gl(j) if the matter involves a fatality or very serious injury<sup>1</sup>, a claim to demonstrate that exceptional circumstances exist so the WHS undertaking can be considered**

Does the contravention involve a fatality or very serious injury?

Yes

No

**Gl(k) the details of any existing occupational health and safety management systems at the workplace including the level of auditing currently undertaken**

1. The JHP was acquired in 2001 when Metecno acquired the business of Southern Pacific Group. The JHP was used infrequently.
2. The Production Manager and a Leading Hand employed by Bondor had developed a SOP for the JHP which was signed off by the Production Manager and Safety Manager. A risk assessment of the JHP had been conducted in 2011 by the National Safety Manager in consultation with Bondor's employees on site. The risk of injury during the operation of the JHP was assessed as rare as the JHP was used infrequently.
3. The Production Manager and Leading Hand conducted monthly house keeping assessments which included a review of guarding. Managers from other Bondor branches in other states visited other Bondor sites annually to review their processes bringing a fresh set of eyes to each operation.
4. Prior to the incident on 18 January 2013 there had not been any incident involving the JHP.

**Gl(l) a statement of regret (i.e. not an admission of guilt)**

1. Bondor deeply regrets that the incident occurred.
2. Bondor deeply regrets the injuries sustained by the factory hand as a result of the incident on 18 January 2013. Bondor is pleased that the factory hand has been able to return to full time employment.

**Gl(m) any rectifications made as a result of the contravention**

1. Post-incident, Bondor replaced the guarding on the JHP with a new guard made of Perspex which was fixed in place with bolts and screws so that it required a tool to be removed. The guard was lowered so that a person's hands or fingers could not pass the guarding when closed, and the interlock device was replaced with one that functioned to stop the machine when the guard was lifted.
2. Bondor will provide documentary evidence to the regulator to demonstrate the rectifications.  
Total amount spent on rectifications                      \$5,260

**Gl(n) an acknowledgement that the WHS undertaking may be published**

1. Bondor acknowledges that the undertaking may be published on the departmental internet site, referenced in departmental material and may be published in newspapers and other media as determined by the regulator.

<sup>1</sup> An injury that has caused nervous system damage liable to lead to mental incapacity or permanent restriction of mobility or involves a major amputation of a limb or parts of the body, for example, amputation above the knee or elbow.

**GI(o) a statement of ability to comply with the terms of the undertaking**

1. I declare that Bondor has the financial ability to comply with the terms of this WHS undertaking and have provided evidence with this undertaking to support this declaration.

**GI(p) The person may be required to provide a statutory declaration**

1. The regulator has requested a statutory declaration outlining details of any prior WHS convictions<sup>2</sup> or findings of guilt under WHS legislation or WHS-related legislation?

Yes

No

2. The statutory declaration is attached (if applicable)

Yes

No

**(q) Acknowledgment of WHS undertaking overview and guidelines**

1. I have read and understood:
  - a. *Enforceable undertakings—overview* version dated December 2012, and
  - b. *Enforceable undertakings—guidelines with respect to the acceptance of a WHS undertaking* version 1 dated December 2012.

**Section 2 – Mandatory Terms**

**MT(a) A commitment that the behaviour that led to the alleged contravention has ceased and will not reoccur**

1. Bondor conducted a comprehensive review of its safety operating procedures following the incident and has improved the guarding on the JHP and other machines. Bondor has updated its OHSMS and risk assessment procedure. Bondor is committed to reviewing its OHSMS and risk assessment procedures at regular intervals to eliminate, as far as practicable, the risk of injury to employees.

**MT(b) A commitment to the ongoing effective management of WHS risks**

1. Bondor is committed to ensuring that its management regularly monitors the review and maintenance of its OHSMS so as to eliminate, as far as practicable, the risk of injury to employees and to facilitate the training of management and employees in the latest Occupational Health & Safety standards prevailing from time to time.
2. Bondor improved its intranet incident reporting system (Metecno WHSE Reporting System - "WHSE System") to allow for the logging and tracking of internal audits and risk assessments. Each task has a specified follow-up time frame allocated to it and the WHSE

<sup>2</sup> Subject to any local legal constraints such as spent conviction legislation.

System provides a weekly reminder to the Branch Manager and Operations Manager of tasks to be carried out. The corrective action taken as a result of each audit or risk assessment is also recorded in the WHSE System to show that it has been completed by attaching a documentary record signed off by the manager. Use of the WHSE System is regularly monitored by the OHSM. Improvements are continually made to the WHSE System as issues are identified.

3. Since the incident and improvements to the WHSE System the incidence of injuries has decreased significantly to the point where there were no lost time injuries in 2014 and 2015 in South Australia. Bondor will provide documentary evidence of the incidence of injuries if required.

**MT(c) A commitment to disseminate information about the undertaking to workers, and other relevant parties, and in the annual report (if applicable)**

1. Dissemination will be achieved by implementing the following:
2. Bondor commits to providing a copy of the Enforceable Undertaking to senior management of Bondor SA, the OHSM and all employees and contractors engaged by Bondor currently or during the currency of the Enforceable Undertaking. Senior management will be required to report on the progress of the strategies proposed under the Enforceable Undertaking to the Board at 6 monthly intervals following the regulator's compliance inspections.
3. Bondor will discuss the issues arising from the incident and the Enforceable Undertaking with senior managers across the business.
4. Bondor will publish a copy of the Enforceable Undertaking on its intranet.
5. Bondor does not produce annual reports.
6. Dissemination will occur by: within 2 weeks of acceptance of the Enforceable Undertaking to each person engaged by Bondor SA. Bondor will provide a register signed by each employee to indicate that a copy of the Enforceable Undertaking was received.

**MT(d) A commitment to participate constructively in all compliance monitoring activities of the undertaking**

1. It is acknowledged that Regulator will conduct compliance monitoring to ensure compliance with the terms of this undertaking.
2. It is acknowledged that compliance inspections will be conducted by an officer of the regulator at no greater than six monthly intervals. The final inspection will be conducted once the undertaking is concluded. It will be concluded on written advice from the regulator when all of the requirements of the undertaking have been satisfactorily executed.
3. Cooperation will be given to allow the regulator's officers to assess compliance including giving access to relevant material.
4. It is acknowledged that the regulator may initiate additional compliance inspections as considered necessary at the regulator's expense.

## **MT(e) Strategies that will deliver worker benefits**

### **1) Update of Occupational Health & Safety Management System (OHSMS)**

1. Bondor proposes to carry out a comprehensive review of its OHSMS to ensure that it conforms with Australian Standard *AS/NZS 4804:2001* with a particular focus on risk management and the circumstances of the incident.
2. Bondor intends to have its OHSMS certified by an external provider to Australian Standard *AS/NZS 4804:2001* within 6 months of acceptance of the Enforceable Undertaking. Bondor will then have compliance with Australian Standard *AS/NZS 4804:2001* externally audited within 9 months of acceptance of the Enforceable Undertaking.
3. Bondor will provide a copy of the OHSMS certification and external audit materials to the regulator.

**Estimated cost: certification and audit \$34,350**

### **2) Upgrade of intranet based WHS&E reporting system**

1. As noted at MT(b) above, Bondor SA has developed an intranet based WHS&E reporting system as part of its OHSMS. The reporting system is designed to record details of risk assessments carried out by the OHSMS and other employees and any corrective actions identified, who is to carry them out and the date by which they are to be completed. The reporting system contains an audit log of the WHS&E actions to be taken to ensure that equipment is adequately maintained and other OHSMS requirements are met, including the training of employees. WHS&E incidents are also recorded with notations of follow up steps required to be actioned.
2. Bondor SA has already upgraded the WHS&E reporting system since the incident and will further expand the scope of the reporting system to increase the benefits to its employees from recording and reporting all WHS&E actions. Bondor will complete this upgrade within 8 months of acceptance of the Enforceable Undertaking.
3. Bondor will record the completed upgrade in the WHS&E reporting system and provide documentary evidence of the upgrade to the regulator.

**Estimated cost: \$14,320**

### **3) Review and upgrade of machine guarding**

1. Bondor has engaged the services of an independent auditor to review and upgrade the guarding on all of its panel manufacturing machinery in South Australia.
2. The review has been completed and a scope of works provided to Bondor. Bondor will make auditor's materials available to the regulator.
3. The upgrade of guarding will be completed within 8 months of acceptance of the Enforceable Undertaking.

**Estimated cost: \$72,800**

**MT(f) Strategies that will deliver industry benefits**

**Working with the Insulated Panel Council of Australia (IPCA) on an industry specific safety system**

1. Bondor will, within 6 months of acceptance of the Enforceable Undertaking, confer with the IPCA to investigate and develop a panel lifting system for the installation of ceiling panels and other panels requiring installation at heights through the use of scissor lifts or other appropriate mechanism/s. Bondor will, within 9 months of acceptance of the Enforceable Undertaking, prepare a SWMS for the panel lifting system and have it certified by an engineer for circulation to the industry.
2. Bondor will make the panel lifting SWMS and engineer certification available to the regulator.
3. Bondor also undertakes to assist in relation to a forum conducted by SafeWork SA during Safe Work Week / Month 2016, by having a representative speak for about 15 minutes in relation to Bondor's experience in respect of agreeing an enforceable undertaking with SafeWork SA.

**Estimated cost: \$7,500 - \$10,000**

**MT(g) Strategies that will deliver community benefits**

**Sponsor a student scholarship at SA TAFE in an OH&S subject**

1. Bondor will confer with SA TAFE to select a suitable student and area of study. Bondor will provide a copy of the terms of the scholarship to the regulator and will provide the sponsorship within 12 months of acceptance of the Enforceable Undertaking.

**Estimated cost: \$10,000**

**MT(h) Agreement to pay the regulators costs**

1. Agreement is given to paying the regulators costs associated with the undertaking, as itemised below, and acknowledgment that payment is due 30 days after receipt of the regulator's invoice:
  - a. investigation, legal and administrative costs associated with the alleged contravention and proposed undertaking **\$2,500**

**Total amount \$2,500**

**Where appropriate**

**MT(i) A commitment to establish and maintain (or maintain if a system already exists) an occupational health and safety management system (OHSMS)**

1. Bondor commits to maintaining its existing OHSMS in accordance with *AS/NZS 4804:2001 Occupational Health and Safety Management Systems - General Guidelines on principles, systems and supporting techniques*

**MT(j) A commitment to ensure the OHSMS is audited by third party auditors**

1. Bondor acknowledges that the auditors selected to perform the OHSMS audits must meet the qualification requirements of the regulator.
2. Bondor commits to ensuring the OHSMS will be audited by accredited third party auditors that meet the principles of AS/NZS 4801:2001 Occupational Health and Safety Management Systems - Specification with guidance for use, as set by the regulator in accordance with standard timeframes.
3. Bondor acknowledges that details of the auditor's qualifications against the stated requirements will be provided with audit reports submitted to SafeWork SA.
4. Bondor acknowledges that costs associated with these audits will be met by Bondor as part of the undertaking.
5. Bondor commits to providing a copy of the Enforceable Undertakings - Information for Auditors of OHSMS fact sheet to the auditor.

**MT(k) A commitment to provide a copy of each finalised OHSMS audit report to the regulator**

1. It is acknowledged that audit reports received from the auditor will be sent to the regulator, within 30 days of the audit along with a letter certifying that the report has not been altered from the copy provided to the person by the auditor.
2. It is acknowledged that within 30 days of receipt of the auditor's written report the regulator, will be advised of the intended action in addressing each of the report's recommendations.
3. Reports arising from the OHSMS audits will be delivered to:

Manager, Compliance and Enforcement  
Investigation Team  
SafeWork SA  
GPO Box 465 Adelaide SA 5001

**MT(l) A commitment to implement the recommendations from these audits (unless otherwise negotiated with the regulator)**

1. The recommendations resulting from the OHSMS audit will be fully implemented within six months of receiving the audit report, unless the regulator offers a variation of the WHS undertaking due to the actions being unreasonable.

**Section 3 - Offer of undertaking**

<p>I offer this undertaking and commit to the terms herein.</p> <p>Signed: ..... [Person]</p> <p>..... [Print name]</p> <p>..... [Position]</p> <p>Dated at ..... this .....day of ....., 20.....</p>	<p>OR</p> <p>As a duly authorised person of Metecno Pty Ltd I offer this undertaking and commit Metecno Pty Ltd to the terms herein.</p> <p>Signed: ..... <i>K. Broadhurst</i> .....</p> <p>[Duly authorised person]</p> <p>..... <i>Ken Broadhurst</i> .....</p> <p>[Print name]</p> <p>Director</p> <p>Dated at SYDNEY this 26<sup>th</sup> day of August, 2015</p>
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**Section 4 - Departmental acceptance of undertaking**

I accept this undertaking as an enforceable undertaking under section 216 of the *Work Health and Safety Act 2012 SA*.

<p>Signed: <i>Marie Boland</i></p> <p><i>MARIE BOLAND</i></p> <p>[Print name]</p> <p>Dated at <i>31</i> Kerwick this <i>31</i> day of <i>August</i>, 20<i>15</i></p>	<p><i>Marie Boland 30/10/15</i></p> <p>Executive Director, SafeWork SA</p>
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