

**Undertaking to the
Australian Competition and
Consumer Commission**

Given under section 87B by

OneSteel Limited

Allens Arthur Robison
530 Collins Street
Melbourne VIC 3000
Tel 61 3 9614 1011
Fax 61 3 9614 4661
www.aar.com.au

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1. Person giving the Undertaking

This Undertaking is given to the Australian Competition and Consumer Commission (the ACCC) by OneSteel Limited (ACN 004 410 833) on behalf of itself and its Related Bodies Corporate (*OneSteel*).

2. Background

2.1 The parties and the transaction

- (a) OneSteel is a vertically integrated mining, steel manufacturing and steel products distribution company, with operations in Australia, New Zealand, the United States and Asia. OneSteel's operations include the manufacture and supply of grinding media in Australasia for use in mining and mineral processing.
- (b) OneSteel intends to acquire Moly-Cop Group S.a.r.l. (Moly-Cop) from Anglo American plc (the **Proposed Acquisition**). Moly-Cop holds a 40% shareholding in Donhad, an Australian manufacturer and distributor of grinding media.

2.2 The ACCC's review

- (a) On 15 November 2010 the ACCC commenced its public review of the Proposed Acquisition.
- (b) The ACCC undertook market inquiries and considered information provided by the parties, industry participants and others. The ACCC's inquiries were aimed at assessing whether or not the Proposed Acquisition would have the effect or be likely to have the effect of substantially lessening competition in a market in contravention of section 50 of the *Trade Practices Act 1974* (the **Act**).

2.3 The ACCC's competition concerns

In the absence of this Undertaking, the Proposed Acquisition would give OneSteel a 40% interest in its closest competitor in the supply of grinding media in Australia. The ACCC was concerned, among other things, that the Proposed Acquisition would diminish OneSteel's incentive to compete for grinding media customers with Donhad.

2.4 OneSteel's proposed divestiture of Donhad

- (a) OneSteel has informed the ACCC that it intends to divest the shareholding in Donhad which it will acquire as a result of its acquisition of Moly-Cop, and has offered this Undertaking pursuant to section 87B of the Act accordingly.
- (b) Pending the divestiture of its interest in Donhad, OneSteel intends to hold its shareholding in Donhad separately from OneSteel's other assets and businesses in accordance with this Undertaking.

3. Commencement and termination of Undertaking

3.1 Commencement

This Undertaking comes into effect when:

- (a) the Undertaking is executed by OneSteel; and
- (b) the ACCC accepts the Undertaking so executed by OneSteel.

3.2 Termination

- (a) This Undertaking terminates on the date the ACCC confirms in writing that it is satisfied that the divestiture of the Divestiture Asset is completed in accordance with this Undertaking.
- (b) Notwithstanding clause 3.2(a), this Undertaking will terminate if the ACCC consents in writing to the withdrawal of this Undertaking in accordance with section 87B of the Act.

4. Sale of Divestiture Asset

OneSteel must, within the Divestiture Period and in accordance with this Undertaking, divest or cause the divestiture of the Divestiture Asset to the Approved Purchaser.

5. Sale of the Divestiture Asset to the Approved Purchaser

5.1 Proposed Purchaser Notice

- (a) If OneSteel seeks to have a purchaser (the Proposed Purchaser) approved by the ACCC in accordance with clause 5.2, OneSteel must give the ACCC written notice (the Proposed Purchaser Notice), containing:
 - (i) the name, address, telephone number and any other available contact details of the Proposed Purchaser;
 - (ii) a copy of any proposed Sale and Purchase Agreement;
 - (iii) a description of the business carried on by the Proposed Purchaser including the location in which the Proposed Purchaser carries on its business;
 - (iv) details of the Proposed Purchaser's experience in the relevant market;
 - (v) the names of the owner and the directors of the Proposed Purchaser; and
 - (vi) a submission from OneSteel addressing the factors set out in clause 5.2(b).
- (b) A Proposed Purchaser Notice must be given to the ACCC at least 20 Business Days prior to the end of the Divestiture Period.
- (c) For the avoidance of doubt, OneSteel may provide more than one Proposed Purchaser Notice to the ACCC at any time in accordance with clause 5.1.

5.2 Approval Notice

- (a) The ACCC must, within 10 Business Days after receipt by the ACCC of the Proposed Purchaser Notice, or such further period as is required by the ACCC and notified to OneSteel in writing prior to the expiration of the 10 Business Day period, notify OneSteel of its decision, either:
 - (i) stating by written notice (**Approval Notice**) that the Proposed Purchaser is an Approved Purchaser; or
 - (ii) refusing to provide an Approval Notice in relation to that Proposed Purchaser.
- (b) Without limiting the ACCC's discretion in making a decision to provide an Approval Notice, the factors to which the ACCC may have regard include whether:
 - (i) the Proposed Purchaser will complete the transaction as contemplated by this Undertaking pursuant to which the Proposed Purchaser would acquire from OneSteel the Divestiture Asset;
 - (ii) the Proposed Purchaser is independent of, and has no direct or indirect interest in, OneSteel;
 - (iii) the Proposed Purchaser is of good financial standing;
 - (iv) the Proposed Purchaser is able to effectively carry out any obligations it incurs as the owner of the Divestiture Asset; and
 - (v) the sale of the Divestiture Asset to the Proposed Purchaser will address any competition concerns of the ACCC.
- (c) The ACCC may revoke the Approved Purchaser's status as the Approved Purchaser of the Divestiture Asset and its acceptance of this Undertaking if the ACCC becomes aware that the information provided to it was incorrect, inaccurate or misleading.

6. Protection of Divestiture Asset

6.1 Protection of Confidential Information

- (a) From the Control Date to the date on which this Undertaking is terminated pursuant to clause 3.2, OneSteel will implement and enforce restrictions preventing access by OneSteel and its advisors and experts to Confidential Information relating to the Divestiture Asset, except as permitted by clause 6.1(c).
- (b) OneSteel and its advisors and experts shall not receive or have access to, or use or continue to use, any Confidential Information relating to the Divestiture Asset, except as permitted by clause 6.1(c).
- (c) Clause 6.1(a), clause 6.1(b) and clause 6.2(b) do not apply to the following information:
 - (i) all publicly available information and information already in OneSteel's possession as at the Control Date;

- (ii) all information necessary to enable OneSteel to comply with legal and financial reporting obligations in Australia (including accounting, tax and continuous and periodical disclosure obligations);
- (iii) such aggregate commercial and financial information in respect of the Divestiture Asset that OneSteel requires to carry out its obligations under this Undertaking, provided such information is only used for that purpose and is only disclosed to those officers, employees, contractors and advisers of OneSteel who need to know the information to carry out the permitted purpose and, if appropriate, to officers, employees, contractors and advisers of the majority shareholder in Donhad.

6.2 Independent board representation

- (a) From the Control Date to the date on which this Undertaking is terminated pursuant to clause 3.2, OneSteel must not appoint any person to the Board of Donhad unless they are an Independent Person, and must procure that no person appointed to the Board of Donhad by OneSteel or Moly-Cop or a Related Body Corporate of Moly-Cop continues to act as a director of Donhad unless they are an Independent Person.
- (b) For the avoidance of doubt, any person appointed to the Board of Donhad by OneSteel pursuant to clause 6.2(a) must not disclose to OneSteel any Confidential Information relating to the Divestiture Asset, except as permitted by clause 6.1(c).

7. Failure to divest the Divestiture Asset within the Divestiture Period

7.1 Sale of the Unsold Asset

In the event that the sale of the Divestiture Asset to an Approved Purchaser is not completed by the end of the Divestiture Period, the Divestiture Asset becomes an Unsold Asset (Unsold Asset) and the provisions of this clause 7 will apply.

7.2 Proposed Divestiture Agent

- (a) At least 20 Business Days prior to the Divestiture Asset becoming an Unsold Asset, OneSteel must identify a prospective divestiture agent to effect the sale of the Unsold Asset (**Proposed Divestiture Agent**) and provide the ACCC with written notice of the identity of the Proposed Divestiture Agent.
- (b) The written notice referred to in clause 7.2(a) is to include such information and documents as the ACCC requires to assess whether to object to the appointment of the Proposed Divestiture Agent, including the proposed terms of appointment.
- (c) The Proposed Divestiture Agent must be a person who has the qualifications and experience necessary to effect the sale of the Unsold Asset and who is independent of OneSteel. The criteria by which the independence of the Proposed Divestiture Agent will be determined include whether the person:
 - (i) is a current employee or officer of OneSteel;

- (ii) is a person who has been an employee or officer of OneSteel in the past three years;
- (iii) is a person who, in the opinion of the ACCC, holds a material interest in OneSteel;
- (iv) is a professional adviser of OneSteel, whether current or in the past three years;
- (v) is a person who has a contractual relationship, or is an employee or contractor of a firm or company that has a contractual relationship, with OneSteel, but for the terms of any Divestiture Agent agreement with OneSteel;
- (vi) is a supplier, or a person who is an employee or contractor of a firm or company that is a supplier, of OneSteel;
- (vii) is a customer of, or a person who is an employee or contractor of a firm or company that has a contractual relationship with, OneSteel; or
- (viii) has, or has had, any other relationship with OneSteel which, in the opinion of the ACCC, is likely to affect the ability of the person to act independently.

7.3 Appointment of Approved Divestiture Agent

If:

- (a) within 10 Business Days of receipt by the ACCC of the written notice referred to in clause 7.2(a); or
- (b) such further period as is required by the ACCC and notified to OneSteel in writing prior to the expiration of the 10 Business Day period,

the ACCC informs OneSteel that it:

- (c) does not object to the Proposed Divestiture Agent, OneSteel will:
 - (i) appoint the Proposed Divestiture Agent as the Divestiture Agent (**Approved Divestiture Agent**) as soon as practicable, and within five Business Days of the date on which the ACCC informs OneSteel that it does not object to the appointment of the Proposed Divestiture Agent as the Approved Divestiture Agent, on terms approved by the ACCC and consistent with the performance by the Approved Divestiture Agent of his or her functions under this Undertaking; and
 - (ii) forward to the ACCC a copy of the executed terms of appointment within one Business Day of its execution; or
- (d) does object to the Proposed Divestiture Agent, OneSteel will:
 - (i) appoint a person identified by the ACCC at its absolute discretion as the Approved Divestiture Agent, within five Business Days of the ACCC nominating the alternative person, on terms approved by the ACCC and

consistent with the performance by the Approved Divestiture Agent of his or her functions under this Undertaking; and

- (ii) forward to the ACCC a copy of the executed terms of appointment within one Business Day of its execution.

7.4 Obligations relating to the Approved Divestiture Agent

- (a) OneSteel must procure that the terms of appointment of the Approved Divestiture Agent include obligations to the effect that the Approved Divestiture Agent:
 - (i) must continue to satisfy the independence criteria in clause 7.2(c) for the period of his or her appointment;
 - (ii) must divest the Unsold Asset, at no minimum price, to an Approved Purchaser approved by the ACCC in accordance with clause 7.7 and clause 7.8 of this Undertaking;
 - (iii) must inform the ACCC immediately of all offers for the Unsold Asset;
 - (iv) must immediately accept any offer for the Unsold Asset upon instruction from OneSteel given in accordance with clause 7.4(b);
 - (v) may charge such fees as are agreed between the Approved Divestiture Agent and OneSteel (but not fees contingent on the price to be obtained for the Unsold Asset), and to be paid by OneSteel. If an agreement cannot be reached between the Approved Divestiture Agent and OneSteel within five Business Days from the date of:
 - (A) the Divestiture Asset becoming an Unsold Asset; or
 - (B) the ACCC nominating an alternative to Approved Divestiture Agent under clause 7.3(d),OneSteel agrees to pay such fees as are directed by the ACCC;
 - (vi) is the only person who may divest the Unsold Asset after the Approved Divestiture Agent's appointment;
 - (vii) may retain any lawyer or other adviser or agent reasonably required to effect the sale of the Unsold Asset, and the fees of that adviser or agent must be paid by OneSteel;
 - (viii) must use his or her best endeavours to enter into a binding agreement for the sale of the Unsold Asset as quickly as possible;
 - (ix) must account to OneSteel for:
 - (A) any moneys derived from the divestiture of the Unsold Asset;
 - (B) all disbursements, fees and charges incurred by the Approved Divestiture Agent in undertaking his/her duties; and
 - (C) all agreed fees of the Approved Divestiture Agent (including the fees of any adviser appointed under clause 7.4(a)(vii));

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- (x) must provide a written report to the ACCC and OneSteel on the first Business Day of each month until the Divestiture Date, concerning:
 - (A) the efforts made to sell the Unsold Asset;
 - (B) disbursements, fees and charges incurred;
 - (C) the identity and function of any advisers engaged;
 - (D) the identity and contract details of any persons expressing interest in the Unsold Asset; or
 - (E) any other information required by the ACCC or OneSteel;
 - (xi) must use best endeavours to ensure that OneSteel complies with its obligations as set out in this clause 7 and report to the ACCC of any failure by OneSteel to do so;
 - (xii) must follow any direction given to him or her by the ACCC in relation to the performance of his or her functions as Approved Divestiture Agent under this Undertaking;
 - (xiii) not use any confidential information through performing his or her functions as the Approved Divestiture Agent other than for the purpose expressed in this Undertaking; and
 - (xiv) report or otherwise inform the ACCC directly of any issues that arise in the performance of his or her functions as Approved Divestiture Agent or in relation to any matter that may arise in connection with this Undertaking.
- (b) The ACCC may direct OneSteel to instruct the Approved Divestiture Agent to accept any offer for the Unsold Asset notified to it under clause 7 of this Undertaking.
 - (c) OneSteel must comply with any direction made under clause 7.4(b) within five Business Days.
 - (d) Without limiting the obligations in this Undertaking, OneSteel must:
 - (i) comply with and enforce the terms upon which the Approved Divestiture Agent is appointed in clause 7.4(a) and elsewhere in this Undertaking;
 - (ii) indemnify the Approved Divestiture Agent for any expenses, loss, claim or damage arising directly or indirectly from the performance by the Approved Divestiture Agent of his or her functions as the Approved Divestiture Agent except where such expenses, loss, claim or damage arises out of the gross negligence, fraud, misconduct or breach of duty by the Approved Divestiture Agent;
 - (iii) not interfere with, or otherwise hinder, the Approved Divestiture Agent's ability to carry out his or her functions as Approved Divestiture Agent;
 - (iv) ensure that the Approved Divestiture Agent will provide information or documents requested by the ACCC directly to the ACCC;

- (v) ensure that the Approved Divestiture Agent undertakes to report and respond to the ACCC, or otherwise informs the ACCC, directly of any issues that arise in the performance of his or her functions as Approved Divestiture Agent or in relation to any matter that may arise in connection with this Undertaking;
- (vi) provide to the Approved Divestiture Agent any information or documents requested by the Approved Divestiture Agent that he or she considers necessary to effect the sale of the Unsold Asset, or for reporting to or otherwise advising the ACCC;
- (vii) assist the Approved Divestiture Agent to effect the sale of the Unsold Asset as quickly as possible;
- (viii) not authorise the Approved Divestiture Agent to sell the Unsold Asset to a purchaser other than an Approved Purchaser;
- (ix) not contract to sell the Unsold Asset on terms which would be inconsistent with the Approved Divestiture Agent's role, the granting of authority to the Approved Divestiture Agent under clause 7.5(b), or any other obligation in this Undertaking;
- (x) take any steps directed by the ACCC in relation to matters arising from a report of the Approved Divestiture Agent referred to in this clause 7 within 10 Business Days of being so directed (or such longer period agreed with the ACCC);
- (xi) maintain and fund the Approved Divestiture Agent to carry out his or her functions; and
- (xii) provide and pay for any external expertise, assistance or advice required by the Approved Divestiture Agent to perform his or her functions as the Approved Divestiture Agent.

7.5 Powers of the Approved Divestiture Agent

- (a) The Approved Divestiture Agent is the only person who may effect the divestiture of the Unsold Asset.
- (b) OneSteel must grant the Approved Divestiture Agent an irrevocable power of attorney conferring all necessary power and authority to effect the divestiture of the Unsold Asset on terms considered by the Approved Divestiture Agent in his or her sole discretion to be consistent with this Undertaking.
- (c) Any irrevocable power of attorney granted pursuant to clause 7.5(b) will end upon resignation or termination of the Approved Divestiture Agent in accordance with clause 7.6.

7.6 Resignation or termination of the Approved Divestiture Agent

- (a) OneSteel must immediately notify the ACCC in the event that an Approved Divestiture Agent resigns or otherwise stops acting as an Approved Divestiture Agent before the Divestiture Date.

- (b) The ACCC may approve any proposal by, or alternatively may direct, OneSteel to terminate an Approved Divestiture Agent if in the ACCC's view the Approved Divestiture Agent acts inconsistently with the provisions of this Undertaking.
- (c) If either clause 7.6(a) or 7.6(b) applies, the ACCC may nominate an alternative Approved Divestiture Agent.
- (d) OneSteel must, within two Business Days of the ACCC nominating an alternative Approved Divestiture Agent:
 - (i) appoint the Approved Divestiture Agent nominated by the ACCC on terms approved by the ACCC and consistent with the performance by the Approved Divestiture Agent of his or her functions under this Undertaking; and
 - (ii) forward to the ACCC a copy of the executed terms of appointment.

7.7 Proposed Purchaser Notice

- (a) If the Approved Divestiture Agent seeks to have a purchaser approved by the ACCC for the purposes of this clause 7 (**Proposed Purchaser**), the Approved Divestiture Agent must give the ACCC a written notice (**Proposed Purchaser Notice**), containing:
 - (i) the name, address, telephone number and any other available contact details of the Proposed Purchaser;
 - (ii) a copy of the relevant Sale and Purchase Agreement;
 - (iii) a description of the business carried on by the Proposed Purchaser including the locations in which the Proposed Purchaser carries on its business;
 - (iv) details of the Proposed Purchaser's experience in the relevant markets;
 - (v) the names of the owner and the directors of the Proposed Purchaser; and
 - (vi) a submission from OneSteel addressing the factors set out in clause 7.8(b) below.

7.8 Approval Notice

- (a) The ACCC may, within 15 Business Days after receipt by the ACCC of the Proposed Purchaser Notice, or such further period as is required by the ACCC, provide the Approved Divestiture Agent with a written notice (**Approval Notice**) stating that the Proposed Purchaser is an Approved Purchaser.
- (b) Without limiting the ACCC's discretion, in making a decision to provide an Approval Notice, the factors the ACCC will have regard to include whether:
 - (i) the Proposed Purchaser will complete the transaction as contemplated by this Undertaking pursuant to which the Proposed Purchaser would acquire from OneSteel the Divestiture Asset;
 - (ii) the Proposed Purchaser is independent of, and has no direct or indirect interest in OneSteel;

- (iii) the Proposed Purchaser is of good financial standing;
 - (iv) the Proposed Purchaser is able to effectively carry out any obligations it incurs as the owner of the Unsold Asset; and
 - (v) the divestiture of the Unsold Asset to the Proposed Purchaser will address any competition concerns of the ACCC.
- (c) The ACCC may, at any time, revoke its acceptance of the Approved Purchaser if the ACCC becomes aware that the information provided to it was incorrect, inaccurate or misleading.

8. Independent audit

8.1 Obligation to appoint an Approved Independent Auditor

OneSteel must appoint and maintain an Approved Independent Auditor (**Approved Independent Auditor**) to perform the functions set out in this clause 8.

8.2 Proposed Independent Auditor

- (a) At least five Business Days before the Control Date, OneSteel must identify a prospective independent auditor (**Proposed Independent Auditor**) and provide the ACCC with written notice of the identity and contact details of the Proposed Independent Auditor.
- (b) The written notice referred to in clause 8.2(a) is to include such information and documents as the ACCC requires to assess whether to object to the appointment of the Proposed Independent Auditor, including a copy of the proposed terms of appointment.
- (c) The Proposed Independent Auditor must be a person who has the qualifications and experience necessary to carry out the functions of the Approved Independent Auditor.
- (d) The Proposed Independent Auditor must be a person who is independent of OneSteel. The criteria by which the independence of the Proposed Independent Auditor will be determined include whether the person:
 - (i) is a current employee or officer of OneSteel;
 - (ii) is a person who has been an employee or officer of OneSteel in the past three years;
 - (iii) is a person who, in the opinion of the ACCC, holds a material interest in OneSteel;
 - (iv) is a professional adviser of OneSteel, whether current or in the past three years;
 - (v) is a person who has a contractual relationship, or is an employee or contractor of a firm or company that has a contractual relationship, with OneSteel, but for the terms of any Approved Independent Auditor agreement with OneSteel;

- (vi) is a supplier, or a person who is an employee or contractor of a firm or company that is a supplier of OneSteel;
- (vii) is a customer of, or a person who is an employee or contractor of a firm or company that has a contractual relationship with OneSteel; or
- (viii) has, or has had, any other relationship with OneSteel which, in the opinion of the ACCC, is likely to affect the ability of the person to act independently.

8.3 Appointment of the Approved Independent Auditor

If:

- (a) within three Business Days of receipt by the ACCC of the written notice referred to in clause 8.2(a); or
- (b) such further period as is required by the ACCC and notified to OneSteel in writing prior to the expiration of the three Business Day period,

the ACCC informs OneSteel in writing that it:

- (c) does not object to the Proposed Independent Auditor, OneSteel will:
 - (i) appoint the Proposed Independent Auditor as the Independent Auditor (**Approved Independent Auditor**) as soon as practicable, and by no later than the Control Date, on terms approved in writing by the ACCC and consistent with the performance by the Approved Independent Auditor of his or her functions under this Undertaking; and
 - (ii) forward to the ACCC a copy of the executed terms of appointment within one Business Day of its execution; or
- (d) does object to the Proposed Independent Auditor, OneSteel will:
 - (i) appoint a person identified by the ACCC at its absolute discretion as the Approved Independent Auditor on terms approved by the ACCC and consistent with the performance by the Approved Independent Auditor of his or her functions under this Undertaking; and
 - (ii) forward to the ACCC a copy of the executed terms of appointment within one Business Day of its execution.

8.4 Obligations relating to the Approved Independent Auditor

- (a) OneSteel must procure that the terms of appointment of the Approved Independent Auditor include obligations on the Approved Independent Auditor to:
 - (i) continue to satisfy the independence criteria in clause 8.2(d) for the period of his or her appointment;
 - (ii) provide any information or documents requested by the ACCC about OneSteel's compliance with this Undertaking directly to the ACCC;
 - (iii) report or otherwise inform the ACCC directly of any issues that arise in the performance of his or her functions as Approved Independent Auditor or in

- relation to any matter that may arise in connection with this Undertaking;
and
- (iv) follow any direction given to him or her by the ACCC in relation to the performance of his or her functions as Approved Independent Auditor under this Undertaking.
- (b) Without limiting the obligations in this Undertaking, OneSteel must:
- (i) comply with and enforce the terms of appointment for the Approved Independent Auditor;
 - (ii) maintain and fund the Approved Independent Auditor to carry out his or her functions;
 - (iii) indemnify the Approved Independent Auditor for any expenses, loss, claim or damage arising directly or indirectly from the performance by the Approved Independent Auditor of his or her functions as the Approved Independent Auditor except where such expenses, loss, claim or damage arises out of the gross negligence, fraud, misconduct or breach of duty by the Approved Independent Auditor;
 - (iv) not interfere with, or otherwise hinder, the Approved Independent Auditor's ability to carry out his or her functions as the Approved Independent Auditor;
 - (v) provide and pay for any external expertise, assistance or advice reasonably required by the Approved Independent Auditor to perform his or her functions as the Approved Independent Auditor;
 - (vi) provide to the Approved Independent Auditor any information or documents requested by the Approved Independent Auditor that he or she considers necessary for carrying out his or her functions as the Approved Independent Auditor or for reporting to or otherwise advising the ACCC;
 - (vii) not request any information relating to the compliance audit from the Approved Independent Auditor without such a request having been approved by the ACCC;
 - (viii) ensure that the Approved Independent Auditor will provide information or documents requested by the ACCC directly to the ACCC;
 - (ix) ensure that the Approved Independent Auditor reports or otherwise informs the ACCC directly of any issues that arise in the performance of his or her functions as Approved Independent Auditor or in relation to any matter that may arise in connection with this Undertaking;
 - (x) direct its personnel, including directors, contractors, managers, officers, employees and agents, to act in accordance with this clause 8;
 - (xi) from the Control Date, ensure that all relevant personnel are aware of the Approved Independent Auditor and the obligations in clause 8; and

- (xii) not appoint the Approved Independent Auditor, or have any agreements, understandings or arrangements with the Approved Independent Auditor, to utilise the Approved Independent Auditor's services for anything other than compliance with this Undertaking until at least 12 months after the Approved Independent Auditor ceases to act in the role of the Approved Independent Auditor.

8.5 Compliance Audit

- (a) OneSteel will procure that the Approved Independent Auditor prepares the audit report set out in clause 8.5(b) below.
- (b) The Approved Independent Auditor is to prepare a detailed report (**Auditor's Report**) on:
 - (i) OneSteel's compliance with this Undertaking;
 - (ii) full reasons for the conclusions reached in the Auditor's Report;
 - (iii) any qualifications made by the Approved Independent Auditor in forming his or her views; and
 - (iv) any recommendations by the Approved Independent Auditor to improve the integrity of the auditing process and any recommendations to improve OneSteel's operations, processes or reporting systems in relation to compliance with this Undertaking.
- (c) The Approved Independent Auditor is to provide the first Auditor's Report to the ACCC and OneSteel within 10 Business Days of the Control Date and thereafter every month until the termination of this Undertaking.
- (d) OneSteel must require the Approved Independent Auditor to provide to the ACCC details of any possible failure to comply by OneSteel with the obligations in this Undertaking immediately upon such a possible failure to comply coming to the attention of the Approved Independent Auditor.
- (e) OneSteel must implement any recommendations of the Approved Independent Auditor made pursuant to clause 8.5(b)(iv), and notify the ACCC of the implementation of the recommendations, within 10 Business Days of receiving the Auditor's Report or after a period agreed with the ACCC.
- (f) OneSteel will take any steps directed by the ACCC in relation to the matters arising from any Auditor's Report of the Approved Independent Auditor, within 10 Business Days of being directed to do so (or such longer period as is agreed with the ACCC).

8.6 Resignation or termination of the Approved Independent Auditor

- (a) OneSteel must immediately notify the ACCC in writing in the event that an Approved Independent Auditor resigns or otherwise stops acting as an Approved Independent Auditor before the termination of this Undertaking pursuant to clause 3.2.

- (b) The ACCC may approve any proposal by, or alternatively may direct, OneSteel to terminate an Approved Independent Auditor if in the ACCC's view the Approved Independent Auditor acts inconsistently with the provisions of this Undertaking or the terms of his or her appointment.
- (c) If either clauses 8.6(a) or 8.6(b) applies, the ACCC may nominate an alternative auditor to be the Approved Independent Auditor.
- (d) OneSteel must, within five Business Days of the ACCC nominating an alternative Approved Independent Auditor:
 - (i) appoint the Approved Independent Auditor nominated by the ACCC on terms approved by the ACCC and consistent with the performance by the Approved Independent Auditor of his or her functions under this Undertaking; and
 - (ii) forward to the ACCC a copy of the executed terms of appointment.

9. Information

- (a) OneSteel must notify the ACCC in writing of the date which OneSteel anticipates will be the Control Date at least three Business Days before that date.
- (b) OneSteel must notify the ACCC in writing of the occurrence of:
 - (i) the Control Date within one Business Day of the Control Date; and
 - (ii) the divestiture of the Divestiture Asset within one Business Day of the Divestiture Date.
- (c) OneSteel must provide the ACCC with a copy of any executed Sale and Purchase Agreement, and any other agreements between OneSteel and the Approved Purchaser relating to the sale of the Divestiture Asset, within one Business Day of that agreement being executed.
- (d) OneSteel must respond in a timely manner to any queries or requests for information or documents made by the ACCC.
- (e) The ACCC may request information from the Approved Divestiture Agent and/or the Approved Independent Auditor directly at any time and the Approved Divestiture Agent and/or the Approved Independent Auditor (as the case may be) will provide the information so requested directly to the ACCC, or as otherwise required by the ACCC.
- (f) The ACCC may direct OneSteel in respect of its compliance with this Undertaking to, and OneSteel must:
 - (i) furnish information, documents and materials to the ACCC in the time and in the form requested by the ACCC;
 - (ii) produce information, documents and materials to the ACCC within OneSteel's custody, power or control in the time and in the form requested by the ACCC; and/or

- (iii) direct its personnel, including its directors, contractors, managers, officers, employees and agents, to attend the ACCC at a time and place appointed by the ACCC to answer any questions the ACCC (including its Commissioners, its staff or its agents) may have.
- (g) In respect of OneSteel's compliance with this Undertaking, the ACCC may request the Approved Independent Auditor or the Approved Divestiture Agent to:
 - (i) furnish information, documents and materials to the ACCC in the time and in the form requested by the ACCC;
 - (ii) produce information, documents and materials to the ACCC within the Approved Independent Auditor's or Approved Divestiture Agent's custody, power or control in the time and in the form requested by the ACCC; and/or
 - (iii) attend the ACCC at a time and place appointed by the ACCC to answer any questions the ACCC (including its Commissioners, its staff or its agents) may have.
- (h) OneSteel will use its best endeavours to ensure that the Approved Independent Auditor or Approved Divestiture Agent complies with any request from the ACCC in accordance with clause 9(g).
- (i) Information furnished, documents and material produced or information given in response to any request or direction from the ACCC under this clause may be used by the ACCC for any purpose consistent with the exercise of its statutory duties.
- (j) Any direction made by the ACCC under clause 9(f) will be notified to OneSteel, in accordance with clause 16.1.
- (k) The ACCC may, in its discretion, to be exercised in good faith:
 - (i) advise the Approved Independent Auditor or Approved Divestiture Agent of any request made by it under this clause 9; and/or
 - (ii) provide copies to the Approved Independent Auditor or Approved Divestiture Agent of any information furnished, documents and material produced or information given to it under this clause 9.
- (l) Nothing in this clause 9 requires the provision of information or documents in respect of which OneSteel has a claim of legal professional privilege.

10. Confidentiality and disclosure

- (a) OneSteel and the ACCC agree that Confidential Schedule 1 of this Undertaking will remain confidential until after the Divestiture Date.
- (b) OneSteel acknowledges that the ACCC may, subject to clause 10(a):
 - (i) make this Undertaking publicly available;
 - (ii) publish this Undertaking on its public Section 87B Undertakings Register; and

- (iii) from time to time publicly refer to this Undertaking.
- (c) Nothing in this clause 10 prevents the ACCC from disclosing such information as:
 - (i) is required by law;
 - (ii) is permitted by s155AAA of the Act;
 - (iii) is necessary for the purpose of enforcement action under section 87B of the Act; or
 - (iv) is necessary for the purpose of making such market inquiries as the ACCC thinks fit to assess the impact on competition arising in connection with the Undertaking.
- (d) Nothing in this clause 10 prevents the ACCC from using the information contained in this Undertaking for any purpose consistent with its statutory functions and powers.

11. Obligation to procure

Where the performance of an obligation under this Undertaking requires a Related Body Corporate of OneSteel to take or refrain from taking some action, OneSteel will procure that Related Body Corporate to take or refrain from taking that action, as the case may be.

12. No Derogation

- (a) This Undertaking does not prevent the ACCC from taking enforcement action at any time during or after the duration of this Undertaking in respect of any breach by OneSteel of this Undertaking.
- (b) Nothing in this Undertaking is intended to restrict the ACCC's right to take action under the Act for penalties or other remedies in the event that OneSteel does not fully implement and/or perform its obligations under this Undertaking or in any other event where the ACCC decides to take action under the Act for penalties or other remedies.

13. Costs

OneSteel must pay its own costs incurred in relation to this Undertaking.

14. Definitions

The following definitions apply:

ACCC means the Australian Competition and Consumer Commission.

Act means the *Trade Practices Act 1974* (Cth).

Approval Notice means the notice given by the ACCC in accordance with clause 5.2(a)(i) or 7.8(a).

Approved Purchaser means a Proposed Purchaser approved by the ACCC in accordance with clause 5.2(a)(i) or clause 7.8(a).

Business Day means a day on which trading banks are open for business in Australian Capital Territory, Australia, but does not include any Saturday, Sunday or public holiday.

Confidential Information means competitively sensitive or proprietary information relating to Donhad, including, without limiting the generality of the foregoing, manufacturing, operations and financial information, operating costs and revenues, customer information, price information, supplier information, marketing methods, patents, technologies, processes or other trade secrets.

Control Date means the date on which OneSteel acquires, directly or indirectly, a legal or equitable interest in Donhad.

Divestiture Asset means all shares in Donhad in which OneSteel has a legal or equitable interest.

Divestiture Date means the date on which divestiture of OneSteel's legal interest in any shares in Donhad is completed.

Divestiture Period means the period specified in Confidential Schedule 1.

Donhad means Donhad Pty Ltd (ACN 009 009 054) and its Subsidiaries.

Independent Person means a person who is independent of OneSteel. Without limitation, a person who is not independent of OneSteel is a person who:

- (a) is a current employee or officer or director of OneSteel;
- (b) has been an employee or officer or director of OneSteel in the past five years;
- (c) has an agreement, arrangement or understanding with OneSteel relating to the performance of his or her functions as a director of Donhad.
- (d) is a shareholder of OneSteel or an officer of, or otherwise associated directly with, a shareholder of OneSteel;
- (e) has, in the last five years, been a principal of a professional adviser or a consultant to OneSteel or an employee associated with the provision of such services to OneSteel;
- (f) is a supplier or customer of OneSteel or an officer of or otherwise associated directly or indirectly with a supplier or customer of OneSteel;
- (g) has a contractual relationship with OneSteel;
- (h) has served on the Board of OneSteel;
- (i) has a relationship which could, or could reasonably be perceived to, interfere with his or her ability to act independently of OneSteel; or
- (j) is a direct family member of a person who is not an independent person.

Moly-Cop means Moly-Cop Group S.a.r.l.

OneSteel means OneSteel Limited (ACN 004 410 833) and its Related Bodies Corporate.

Proposed Purchaser means a purchaser proposed in accordance with clauses 5 or 7.

Related Bodies Corporate has the meaning given in section 4A of the Act.

Sale and Purchase Agreement means an agreement or agreements in respect of the sale and purchase of the Divestiture Asset.

Subsidiary has the meaning given in section 4A of the Act.

Unsold Asset means any shares in Donhad in which OneSteel has a legal or equitable interest following the end of the Divestiture Period.

15. Interpretation

In the interpretation of this Undertaking, the following provisions apply unless the context otherwise requires:

- (a) A reference to this Undertaking includes all of the provisions of this document including its Schedules.
- (b) Headings are inserted for convenience only and do not affect the interpretation of this Undertaking.
- (c) If the day on which any act, matter or thing is to be done under this Undertaking is not a Business Day, that act, matter or thing must be done on the next Business Day.
- (d) A reference in this Undertaking to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (e) A reference in this Undertaking to any company includes its Related Bodies Corporate.
- (f) A reference in this Undertaking to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced.
- (g) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Undertaking.
- (h) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- (i) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- (j) A word which denotes the singular also denotes the plural, a word which denotes the plural also denotes the singular, and a reference to any gender also denotes the other genders.
- (k) A reference to the words 'such as', 'include', 'including' 'particularly' and similar expressions is to be construed without limitation.

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- (l) A construction that would promote the purpose or object underlying the Undertaking (whether expressly stated or not) shall be preferred to a construction that would not promote that purpose or object.
 - (m) Material not forming part of this Undertaking may be considered to:
 - (i) confirm the meaning of a clause is the ordinary meaning conveyed by the text of the clause, taking into account its context in the Undertaking and the competition concerns intended to be addressed by the Undertaking and the clause in question; or
 - (ii) determine the meaning of the clause when the ordinary meaning conveyed by the text of the clause, taking into account its context in the Undertaking and the purpose or object underlying the Undertaking, leads to a result that does not promote the purpose or object underlying the Undertaking.
 - (n) In determining whether consideration should be given to any material in accordance with this paragraph, or in considering any weight to be given to any such material, regard shall be had, in addition to any other relevant matters, to:
 - (i) the effect that reliance on the ordinary meaning conveyed by the text of the clause would have (taking into account its context in the Undertaking and whether that meaning promotes the purpose or object of the Undertaking); and
 - (ii) the need to ensure that the result of the Undertaking is to completely address any ACCC competition concerns.
 - (o) The ACCC may authorise the Mergers Review Committee, a member of the ACCC or a member of the ACCC staff, to exercise a decision making function under this Undertaking on its behalf and that authorisation may be subject to any conditions which the ACCC may impose.
 - (p) In performing its obligations under this Undertaking, OneSteel will do everything reasonably within its power to ensure that its performance of those obligations is done in a manner which is consistent with promoting the purpose and object of this Undertaking.
 - (q) A reference to:
 - (i) a thing (including, but not limited to, a chose in action or other right) includes a part of that thing;
 - (ii) a party includes its successors and permitted assigns; and
 - (iii) a monetary amount is in Australian dollars.

16. Notices

16.1 Service of notices

- (a) Any notice or other communication to the ACCC pursuant to this Undertaking must be sent to:

Name: Australian Competition and Consumer Commission
Attention: Executive General Manager – Mergers and Acquisitions Group
Address: 23 Marcus Clarke Street Canberra ACT 2601
Fax number: (02) 6243 1212
Email: mergers@accc.gov.au

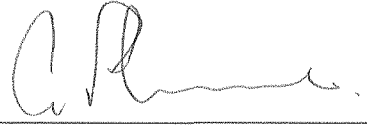
- (b) Any notice or other communication to OneSteel pursuant to this Undertaking must be sent to:

Name: OneSteel Limited
Attention: Naomi James, Chief Legal Officer
Address: 259 George Street Sydney NSW 2000
Fax number: (02) 9239 6608
Email: jamesn@onesteel.com.au

16.2 Change of address or fax number

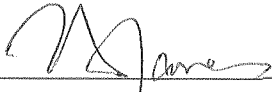
If either OneSteel or the ACCC gives the other three Business Days' notice of a change to its address or fax number, any notice or communication is only given to the relevant entity if it is delivered, posted or faxed to the most recently advised address or fax number.

Signed for OneSteel Limited
(ACN 004 410 833) by:



Director Signature
GEOFF PLUMMER

Print Name



Director/Secretary Signature
NAOMI JAMES

Print Name

Date: 13 December 2010

This Undertaking given by OneSteel Limited (ACN 004 410 833) is accepted by the **Australian Competition and Consumer Commission** pursuant to section 87B of the *Trade Practices Act 1974*



Graeme Julian Samuel
Chairman

Date: 17/12/2010

Confidential Schedule 1