

# Application for an enforceable undertaking

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July 2017

Part 4, Health and Safety at Work Act 2015

The commitments in this application are offered to WorkSafe New Zealand by

Airtech Limited

## Appendix 1 – Health and Safety at Work Act 2015

1. The purpose of this Act is to provide for the health and safety of workers and to provide for the health and safety of the community.

2. The purpose of this Act is to provide for the health and safety of workers and to provide for the health and safety of the community.

3. The purpose of this Act is to provide for the health and safety of workers and to provide for the health and safety of the community.

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5. The purpose of this Act is to provide for the health and safety of workers and to provide for the health and safety of the community.

DEFINITION
An action which offends against the <i>Health and Safety at Work Act 2015</i> and/or any Regulations made under it. It includes both health and safety contraventions. A contravention also includes an alleged contravention.
A Health and Safety Management System.
An individual who or a legal entity which has a duty under the <i>Health and Safety at Work Act 2015</i> and can give a written undertaking. The term includes individuals, each partner in a partnership, corporations, trustees of trusts, and crown organisations.
<i>Health and Safety at Work Act 2015</i> and associated regulations.
An enforcement pathway that allows a duty holder to voluntarily enter into a binding agreement with WorkSafe. The agreement outlines actions the duty holder will undertake to address the contravention. It is expected to deliver activities which benefit workers, the wider industry or sector and/or the community as well as acceptable amends to any victim(s).

**1.1 Details of the person/persons/entity giving the undertaking**

Name of person(s) making this undertaking: (in all cases complete with the name(s) of those who are signing this undertaking under Section 4)

Brian Stokes

Name of entity: (if applicable, leave blank if an individual)

Airtech

Type of legal entity: (complete in all cases, for example individual, sole trader, partnership, trust, company, etc)

Limited Company

Nominated contact person: (the same person listed above/one of those listed above)

Brian Stokes

**1. General information** Description of the products and services provided by the business or undertaking:

Air conditioning and refrigeration mechanical services.

Comments:

Physical address:

Airtech Ltd, 3 Williamson Avenue, Grey Lynn, Auckland

Postal address: (if different from physical address)

Work phone: 09 376 7021

Mobile phone:



email: Industry: brian@airtech.net.nz

Workers (enter number): HVAC

Full-time: 17

Part time:

Casual:



### **1.3 Detail the events surrounding the contravention**

1. On 5 July 2016, two Airtech workers were assigned the job of going to client to clean out the evaporator unit in a client's chiller.
2. They signed in to the client using the electronic sign in process at around 10am.
3. They were told a forklift had been arranged to allow them access to the evaporator in the chiller.
4. The workers were lifted up to chiller evaporator unit in the personnel cage on the forklift which was operated by the client's worker. They spent two hours working on the unit. The forklift was running about 50% of the time and was moved around every 10 or 15 minutes.
5. The workers took a lunch break outside and one of them described feeling unwell.
6. They asked if they could clean the evaporator unit in the neighbouring chiller as well. This also required working at height. After lunch, they went into the neighbouring chiller and saw the forklift already running.
7. They spent about 40 minutes undertaking the work before one worker said he felt ill and went outside. The other workers worked for a further 20 minutes after the first worker left.
8. The forklift bore no warning sign as to the danger of carbon monoxide in confined spaces and use of the forklift was not restricted in the chiller. Nobody identified the risk of carbon monoxide poisoning in the chiller from the use of the LPG powered forklift.

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**1.4 Detail any enforcement notices issued that relate to the contravention as detailed in term 1.2**

DATE	NOTICE TYPE	NOTICE NUMBER	CONTRAVENTION OR PROHIBITED ACTIVITY	ACTION TAKEN IN RESPONSE TO NOTICE
None				

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**1.5 Detail the rectifications to the workplace or work practices made as a result of the contravention (1.2), events (1.3) and the enforcement notices issued (1.4)**

Airtech has 17 workers. All staff are now aware of the hazard of carbon monoxide poisoning in confined spaces as a result of this incident, and the steps required to eliminate the risk. Airtech is confident the same issue will not recur.

However, Airtech proposes significant investment in information technology systems for the purpose of risk assessment, task analysis and monitoring of compliance specific to its industry, as set out below.

It is proposed that its investment in technology be promoted as freely available to the air conditioning and refrigeration industries, through the industry associations and an education programme supported by Airtech.

**1.6 Total amount of money spent on rectifications**

Airtech acknowledges that, so far as this particular risk is concerned, the cost of remediation has been low because it has a relatively small workforce all of whom are well aware of the event.

**1.7 Detail the injury sustained or illness suffered by victim(s) or other(s) as a consequence of the contravention or, (as applicable) the *potential* for fatal injury or future fatal illness**

The workers suffered from carbon monoxide poisoning and were treated in hospital. Two workers required specialist treatment at the Devonport Naval Base. The two workers employed by Airtech returned to work within a few days and have no ongoing symptoms. Airtech has no knowledge of the prognosis for the NZHH worker and understands that he departed overseas. Airtech acknowledges that while the impact on workers in this case was short lived, carbon monoxide poisoning can be fatal.

**1.8 Detail any offer of amends or payments made to the victim(s) who sustained injury or suffered illness (the total monetary amount here is also to be included in the table at 3.12.3)**

Describe the victim(s) relationship to you/the entity in question: (eg employee(s)/shareholder/director/family member/contractor, etc. If the relationship has more than one dimension, for example a family member who is also an employee and a director and/or shareholder of the business or an employee who is a shareholder (etc) – then please describe fully)

See above

Detail offer of amends or payments:

Neither Airtech worker suffered any consequential financial loss as they were paid their salaries in full during the short time they were off work. Airtech recognises that its two workers will have suffered emotional harm from the experience. It proposes payment of \$5,000 to each employee in respect of that harm by way of amends.

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**1.9 Detail any consultation with the victim(s) as to their views on whether an enforceable undertaking would be an acceptable alternative to prosecution**

Airtech has discussed the proposed undertaking with its affected workers, and they are supportive of it. One of those workers said:

"I had meeting with Brian and John regarding the Enforceable Undertaking and I think it's a very good idea cause this can make people change the way they think and save lives."

**1.10 Detail any consultation with unions/sector/industry as to their views on whether an enforceable undertaking would be an acceptable alternative to prosecution**

A key difference from other software solutions is that it ensures a task analysis tailored to the HVAC industry is applied at the 'front line' and application of that procedure can be monitored by the PCBU.

Airtech will use its commercial relationships and contact air conditioning suppliers (in excess of 50 businesses) and provide, free of charge, workshops in Invercargill, Dunedin, Christchurch, Wellington, Hamilton and Auckland, demonstrating and promoting the system it has developed.

**1.11 Detail the support provided or proposed by the person to the victim(s), other(s)**

DATE	DESCRIPTION OF SUPPORT	COMMENTS
	Airtech management attended the scene of the incident as soon as we were made aware of it.	
	The Airtech workers were absent from work for only a short period and Airtech management remained in contact with them during that period by phone.	

### **1.12 Detail any current HSMS implemented and maintained by the person**

Describe how health and safety risks are managed, including types of procedures or policies or standards:

Airtech has a HSMS and its workers had been trained in working at heights, which are a routine hazard in air conditioning installation and maintenance. Airtech has an integrated job allocation system accessed by workers through a handheld PDA. WorkSafe acknowledges that system requires that workers cannot progress to another job screen without first acknowledging a hazard screen. In the past, hazards were only required to be noted when they were 'outside the norm'.

Work at height was not considered to be a hazard outside of the norm because it is a routine hazard in which the workers are trained and experience almost every day.

WorkSafe has pointed out that the PDA screen does not prompt workers to consider the risks associated with the controls. In this case there was no prompt to consider whether using an LPG powered forklift was the appropriate control for the risk arising from work at height. That requires a sophisticated system which in relation to this event, would recognise the hazard of carbon monoxide poisoning arising from working at height. It requires connection of the risks of working at height with specific risks associated with another specialised area of expertise, namely use of forklifts, which is not equipment operated by Airtech. Those risks are not commonly referred to in combination.

Airtech uses an assessment document called a 'JSWEP' which requires a worker to assess hazards against a number of questions. Airtech does not require a JSWEP in routine maintenance jobs.

### **1.13 Detail the level of auditing undertaken on the HSMS, including compliance audits and audit frequency**

Airtech has not in the past had its HSMA audited, but it has retained consultants AllAboutPeople to assist in ensuring the compliance and improvement in its HSMS. They will use Safe365 to conduct the audit.

### **1.14 Detail the consultation undertaken or proposed to be undertaken, in relation to this undertaking**

Airtech will work with consultants, AllAboutPeople in improving its systems. In formulating improvements, Airtech is consulting with workers on the hazards to be controlled, and how that might best be achieved through the adoption of technology. Airtech will consult all workers on this proposal before implementing new processes.



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## 2. General terms

The person acknowledges and commits to the general terms set forth in the sub-terms below.

### 2.1 Acknowledgement that WorkSafe alleges a contravention occurred as detailed in term 1.2

Airtech acknowledges that WorkSafe alleges a contravention occurred.

### 2.2 Statement of regret that the contravention occurred

Airtech deeply regrets these workers being exposed to carbon monoxide poisoning and accepts that more might be done to ensure workers are aware of the hazards in a workplace, have the ability properly to assess the controls required to eliminate or minimise those risks, and for the business to be able to monitor workers' compliance while out in the field. While the wellbeing of all workers is of equal importance, that importance is underlined to Mr Stokes as director of Airtech, as his son works in the business as an air conditioning technician.

### 2.3 Statement of the reasons why, on balance, the person considers this undertaking is the most appropriate response to the contravention

This undertaking fulfils the objectives of an enforceable undertaking which are to:

1. Support progressively higher standards of work health and safety in a given industry or sector for the benefit of the:
  - workers and/or work and/or workplace
  - wider industry or sector, and
  - community.
2. Provide acceptable amends to any victims.
3. Support WorkSafe to meet its strategic priorities

The Health and Safety Resources developed will focus on increasing knowledge and ability of workers to identify, assess and control risk 'at the coal face' and enable the business to monitor compliance.

Airtech's own workers are already enthusiastic adopters of the iAuditor system tailored to the HVAC industry which is being trialled by Airtech.

As part of this undertaking, Airtech is committed to dedicating 1 day a week by a technician in applying his industry knowledge to the development of the iAuditor system.

To further underpin the importance of the technology, Airtech will send all 14 technicians on a Hazard and Risk Management course.

Although Airtech employs 14 air conditioning technicians, the New Zealand Air Conditioning and Refrigeration Industry is very fragmented and comprised of many small owner operated business (90%+). Small businesses have fewer resources to call upon in complying with their health and safety obligations. Airtech's proposal is to invest in systems which it will share with small HVAC businesses, to enable them to comply to a high standard at an affordable cost.

Airtech will promote adoption of the system it has developed, free of charge to over 50 air conditioning suppliers in Invercargill, Dunedin, Christchurch, Wellington, Hamilton and Auckland. The cost of these seminars is estimated at \$10,000.

Airtech recognises that although the physical effects on its 2 workers were relatively short-lived, the incident had an emotional impact upon them. It does not shirk from providing those workers with a payment by way of amends.

Airtech prefers to embrace the challenge of improvement and invest its resources (of time and money) in both its own workers and its industry than to contest culpability. It also sees the value in spending the limited financial resources it has available given its size

and capability, on improving its own resources and processes, ensuring compliance through adoption of a formal auditing processes, and improving industry standards by contributing an industry specific system to be used by technicians in the field, rather than paying a fine.

All of these activities will support WorkSafe's vision that everyone who goes to work comes home healthy and safe, its purpose which is to transform New Zealand's workplace health and safety performance, while being consistent with its values of integrity, courage and responsibility.

In summary, the steps Airtech proposes by way of undertaking are designed to improve outcomes for workers in its industry, which will not be achieved through the criminal process.

#### **2.4 Statement of commitment that the behaviour, activities and other factors which caused or led to the contravention has ceased and will not reoccur**

Airtech confirms that the behaviour, activities and other factors which caused or led to the contravention has ceased and will not reoccur. Airtech is committed to applying the learning from this event to its methods of managing risk

#### **2.5 Acknowledgment of the policy published by WorkSafe for the acceptance of an undertaking**

*(with the name of the person or entity giving the undertaking)*

Airtech has read and understood the enforcement Undertaking Operational Policy.

#### **2.6 Acknowledgement that this undertaking will be published and publicised in full**

Airtech acknowledges that the undertaking will, if accepted, be published on WorkSafe's website in full and referenced in WorkSafe material.

#### **2.7 Statement of the person's ability to comply with the terms of this undertaking and meet the projected costs of the activities**

Airtech has the financial ability to comply with the terms of this undertaking.

In the event of impending receivership, liquidation or sale of the entity Airtech will advise WorkSafe of the relevant circumstances and its capacity to comply with the outstanding terms of this undertaking.

#### **2.8 Statement outlining any relationship between the person and any corporations, officers, employees, contractors, proposed beneficiaries of donations or scholarship or other recipient of financial benefit contained in this undertaking**

None save the worker as employee.

## **2.9 Statement regarding Intellectual Property**

Airtech grants WorkSafe a perpetual, non-exclusive, worldwide and royalty-free licence to use, for any purpose, all Intellectual Property Rights in relation to any material developed as a result of this undertaking. This licence includes the right to use, copy, modify and distribute the materials

## **2.10 Acknowledgement that the person may be required to provide a statutory declaration**

Airtech acknowledges that it may be necessary for WorkSafe to obtain a statutory declaration outlining details of any prior convictions (safety related) outside of New Zealand and that it will provide such declaration if required by WorkSafe

## **2.11 Statement of commitment from the person to participate constructively in all compliance monitoring activities for this undertaking**

1. It is acknowledged that responsibility for demonstrating compliance with this undertaking rests with the person.
2. Evidence to demonstrate compliance with the terms will be provided to WorkSafe by the due date for each term.
3. The evidence provided to demonstrate compliance with this undertaking will be retained by the person until advised by WorkSafe, that this undertaking has been completely discharged.
4. It is acknowledged that any failure to meet the due date for an enforceable term will result in the matter being escalated and may lead to enforcement action.
5. It is acknowledged that WorkSafe may undertake other compliance monitoring activities to verify the evidence and compliance with an enforceable term, and cooperation will be provided to WorkSafe.
6. It is acknowledged that WorkSafe may initiate additional compliance monitoring activities, such as inspections, as considered necessary at WorkSafe's expense.
7. It is acknowledged that details of all seminars, workshops and training conducted by a non-registered training provider must be notified to WorkSafe, by email, at least one week prior. Notification should include time, date, location and the trainer/facilitator.

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### 3. Enforceable terms

The person acknowledges all activities set forth in the enforceable terms below must be auditable and include a date for completion and an estimated cost for each activity.

The person commits to performing the activities below diligently, competently and by the respective completion date.

#### **3.1A commitment by the person to perform activities that will ensure the ongoing effective management of risks to health and safety in the future conduct of its business or undertaking**

Detail the management strategies to be employed that will satisfy and demonstrate to officer/s of the person that this commitment is being met:

Airtech is committed to the performance of the activities as detailed above and below in this application.

The workers will be paid the amends of \$5,000 each within 28 days of acceptance of the undertaking.

Airtech proposes an 18 month timeframe for completion to include development of the system, full application within its business, seminars with air conditioning dealers in Invercargill, Dunedin, Christchurch, Wellington, Hamilton and Auckland, preparation of its short film relating to the incident and media article, and donation to Headway: Brain Injury Auckland of \$5,000.

#### **3.2 A commitment by the person to disseminate information about this undertaking to workers, and other relevant parties**

(Where applicable, include to work health and safety representatives and in the organisation's annual report, if applicable)

Dissemination will be achieved by doing the following:

Airtech has already engaged with the two affected workers, who are supportive of the undertaking. The processes it proposes to implement in its business are already being trialled, and so all workers are aware of changes, but the detail of the undertaking will be fully shared with all workers (subject to the sharing of details of amends being acceptable to the affected workers).

Airtech will be transparent with those that they contact in promoting the system, that it arises as part of this undertaking to WorkSafe. The timeframe for completing the seminars is 18 months, given that development time required to enable them to occur.

Dissemination will occur by: / /

### 3.3 Activities to be undertaken to promote the objectives of the health and safety legislation that will deliver benefits for workers and/or work and/or the workplace

ACTIVITIES	COST	TIMEFRAME
Outline the activity and the expected outcomes	(\$)36,500	12 months

Airtech has and will continue to invest time and expense in producing a new risk management tool for workers in its industry to assess and manage risks prior to commencing a new job.

- The challenge in any trades-based activity, is to provide workers with the appropriate tools to assess risk in what may appear to be routine environments, but which present hazards that may not be appreciated by the worker. In the case in point, although the workers were trained in working at height, they did not know about the risk of carbon monoxide poisoning from LPG powered forklifts in confined spaces.
- Airtech has and will continue to dedicate one worker (of its small staff of 17) full time one day a week for the coming year to work with consultants allaboutpeople in developing task analyses, safe operating procedures (SOPs) and safe work methodologies for common tasks in the airconditioning and refrigeration industry. The work product will be hosted in a cloud based IT system which will also incorporate worker training records so Airtech can monitor worker training. All processes will be accessible by workers while working in the field. Allaboutpeople have already prepared from scratch or reviewed drafts to ensure they align with best practice. They have produced the following SOPs:
  1. Use of Ladders
  2. Lock Out Tag Out
  3. Using Elevated Work Platforms
  4. Angle Grinders (updated recently prohibiting use of Carbide Blades)
  5. Working in Crawl Spaces
  6. Working in Ceiling – Roof Spaces
  7. Using Power Tools
  8. Transporting Refrigerant
  9. Handling Refrigerant
  10. Using Concrete Hammer Drill
  11. Using Lokring pipe joiner
  12. Using Manifold Gauges
  13. Using Refrigerant Recovery Plant and Recovery Cylinders
  14. Using Electrical Lifters to lift heavy units into place
  15. Using Gas Welding sets
  16. Handling Sheet metal
  17. Using Portable Trestle
  18. Using Mobile Scaffolding
  19. Using Pallet lift hoist
  20. Operating motor vehicle
  21. Transporting Flammable Refrigerant
  22. Handling Flammable Refrigerant
  23. Manual Handling
  24. Company Vehicles
  25. Isolated / lone workers
- Airtech will separately develop a risk assessment system for use on mobile phones, prompting and guiding workers properly to assess hazards and implement the required controls prior to commencing work. In this instance, that required a risk assessment system to correlate the risks of working at height with the risks of working in a confined space and use by others of LPG powered forklifts (equipment they are not trained to use). The new system will enable that correlation to be identified and controls to be

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implemented. The risk assessment system to be adopted by Airtech will be developed in iAuditor, which is a software system available to the industry generally at an affordable cost. They have finalised these Hazard ID Templates on iAuditor

1. Maintenance Prestart
  2. Service Prestart
  3. Project work – Prestart
  4. Vehicle weekly Check – including ladders
  5. Management staff Site audit
  6. Hazard Notification Form
  7. Tool Box Talk
  8. Workshop Audit
  9. Domestic air conditioning install prestart
  10. Domestic site audit (done at sales visit to give to installer)
- The system may also be enabled to apply to other trades.
  - Airtech will involve their Workers (employees and Contractors) in the development of these simple and effective health and safety tools and training resources that will also form part of the Industry initiative.
  - All Airtech workers will be trained in the system.
  - The system will enable Airtech management to monitor and analyse compliance of workers in applying the risk assessment and application of controls process.
  - In addition, all 14 technicians are to be sent on Hazard and Risk Management courses at an estimated cost of \$8,500-\$10,000.

Estimated cost:

allaboutpeople	\$15,000
Worker salary	\$12,000
Courses	\$8,500

Management time commitment - significant but not quantified.  
Timeframe: 12 months

Within 1 month of this undertaking being accepted Brian Stokes is joining the Business Leaders Health and Safety Forum ([www.zeroharm.org.nz](http://www.zeroharm.org.nz)). The Forum's pledge is:

I will:

Take personal responsibility for making health and safety a vital part of my business.

Create a workplace where everyone views health and safety as natural and important as quality, profit and customer service.

My organisation will:

Hold itself accountable before its peers by sharing its health and safety performance.

Constantly improve its health and safety performance.

Champion health and safety – inspiring our people, suppliers and customers to create Zero Harm Workplaces.

Build workplaces which guarantee reported incidents will be investigated and action taken.

The Forum will:

Use its combined skill, experience and resources to make health and safety everyone's responsibility.

Combine its strengths to improve people's ability to look after themselves and their families.

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Be open to initiatives from all sources which contribute to achieving Zero Harm Workplaces.

This pledge will be signed and displayed in the organisation.

Estimated cost: \$1,000 p.a. ongoing

Timeframe: 1 month

Total estimated cost of benefits for workers/others \$36,500

### 3.4 Activities to be undertaken to promote the objectives of the health and safety legislation that will deliver benefits for the wider industry or sector

ACTIVITIES	COST	TIMEFRAME
Outline the activity and the expected outcomes	(\$)10,000	12-18 months
<p>1. The Air conditioning and Refrigeration Industry is very fragmented with many companies needing guidance and tools to assist in compliance with their obligations under the Health and Safety at Work Act 2015. In particular, guidance and tools are needed for smaller businesses and their workers working on small installations, service jobs and maintenance jobs – many of which are done by a solo employee on the client's site. In particular there needs to be a strong focus on the work practises and behaviours of the employees to use safe work practises are used and Hazards are identified before work starts. A key difference from other software solutions is that the iAuditor system ensures a task analysis tailored to the HVAC industry is applied at the 'front line' and application of that procedure can be monitored by the PCBU.</p> <p>Estimated cost: above (\$27,000)</p>		
<p>2. Airtech will contact over 50 air conditioning suppliers in New Zealand who supply, install and maintain air conditioning and refrigeration equipment in both commercial businesses and domestic sites. The suppliers are almost exclusively owner operated. There are suppliers throughout New Zealand with most centred in Invercargill, Dunedin, Christchurch, Wellington, Hamilton and Auckland. Airtech will facilitate (at its own cost) seminars in the above cities. By way of evidence of its commitment to this project, Airtech has already approached a number of air conditioning businesses to educate them as to this incident and propose adoption of its system. One business with 25+ employees has adopted the system, and others are engaging with it. Airtech will advise WorkSafe as to how many businesses they are providing the SOPs and associated material to, and the number of workers benefiting from those steps. Health and Safety Consultants, All About People will provide reporting on selected PCBUs who are prepared to participate.</p> <p>Estimated cost: \$10,000 Timeframe: 18 months</p>		
<p>3. Once finally developed, the iAuditor risk assessment and control system templates will be made freely available to all dealers and any other HVAC PCBUs who are interested in using the system.</p> <p>Estimated cost: As above, but value to industry is significant. Timeframe: 6 months</p>		
<p>4. The majority of Airtech's staff are Fijian. They were trained as air conditioning technicians at Fiji National University where they have undertaken Trade Certificates in Refrigeration and Air Conditioning. Airtech has corresponded with the University which confirms that their training modules do include lock out tag out for electrical systems, working and heights and in confined spaces. They do not specifically cover the risk of carbon monoxide poisoning from LPG driven forklifts. Airtech will provide a copy of this undertaking to the University by way of encouraging it to include this risk in its training modules.</p> <p>Timeframe: 1 month.</p>		

5. Manukau Institute of Technology teach the New Zealand Certificate in Refrigeration and Air Conditioning (Trades Assistant). Airtech will provide a copy of this undertaking to MIT by way of encouraging it to include this risk in its training modules.

Timeframe: 1 month.

6. Airtech would support WorkSafe in using this case and the developments above as part of a case study to appear on WorkSafe's own website <http://www.worksafe.govt.nz/worksafe/hswa/tools-and-resources/case-studies>

The financial outlay is what is within Airtech's financial capacity to afford, but Airtech undertakes to commit significant management time in (1) engagement with the industry bodies and (2) organising and participation in roadshows, to ensure that this part of the undertaking is achieved to meet its objective of reaching as many small PCBUs as possible at no cost to them, within a relatively short time frame.

Total estimated cost of benefits for industry \$10,000

### 3.5 Activities to be undertaken to promote the objectives of the health and safety legislation that will deliver benefits for community

ACTIVITIES	COST (\$) <b>20,000</b>	TIMEFRAME <b>12-18 months</b>
<p>To promote the objects of the legislation to the community, Airtech will commission a short video to be produced once the risk assessment system has been developed, and consultation is complete with the industry. The video will highlight the dangers of carbon monoxide poisoning both in the community and at work.</p> <p>From the community perspective, the hazard of carbon monoxide poisoning from LPG cooking and heating will be addressed, together with appropriate controls.</p> <p>It will also address the hazard in a workplace context by identifying how the hazard came to the attention of Airtech, show Airtech workers using the risk assessment system and Airtech management monitoring the results. While fulfilling a broad community purpose, it will also highlight the obligations on PCBUs to enable workers properly to assess and control hazards and for the PCBU to monitor results, and show the new technology achieves that. Airtech will: Put the video on its own website as demonstration of its commitment to health &amp; safety in its business and the industry. Make the video available to WorkSafe for its Facebook page and website The cost of this production is estimated (in light of consultation with a producer) at \$10-15,000 to have it scripted and produced.</p> <p>Timeframe: 12-18 months</p>		

Airtech will commission an article for publication in the Indian community media about the hazard of carbon monoxide poisoning in the community and workplace contexts, the learnings from this incident and the steps taken in implementing this Undertaking. The video will also be made available to online media as a link.

Timeframe: 12-18 months

Airtech will seek and obtain approval by WorkSafe of the video and article prior to publication.

While the impact on Airtech staff was short-lived, there was potential for hypoxic brain injury. Headway: Brain Injury Auckland is a charity formed in 1981 by a group of parents, partners and other carers who found little support in the community post injury. They provide advice and ongoing support, including support groups which meet regularly at Epsom, Otara and Albany. Airtech will donate \$5,000 towards maintaining their services.

Total estimated cost of benefits for the community \$20,000



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### 3.6 Agreement to pay WorkSafe's recoverable costs

The actual dollar amounts will be provided by WorkSafe prior to finalisation of the enforceable undertaking.

(write the name of the person(s) or entity giving the undertaking)

Airtech agrees to pay WorkSafe's costs associated with this undertaking, not exceeding \$10,000.

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COSTS	MINIMUM SPEND
Administrative	
Legal	
Compliance Monitoring	
Publication (if any)	

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Total recoverable costs

\$

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### 3.6 Acknowledgement regarding any promotion of the person in relation to this undertaking

(write the name of the person(s) or entity giving the undertaking)

Airtech agrees that it will not undertake any activities that may promote or benefit the person without explicitly linking that activity/benefit to this undertaking

### 3.7 Where WorkSafe considers appropriate in the circumstances, developing a commitment to (establish and maintain OR maintain) an HSMS

Please only complete the versions of 3.8.1 and 3.8.2 that apply in your particular circumstance.

If required contact the WorkSafe enforceable Undertakings Team to determine which options are appropriate.

3.8.1 Airtech commits to ensuring that within 12 months of the acceptance of this undertaking the HSMS shall be compliant with *AS/NZS 4804:2001 Occupational health and safety management systems – General guidelines on principles, systems and supporting techniques*

3.8.2 Airtech acknowledges that the HSMS will be maintained in accordance with *AS/NZS 4804:2001 Occupational health and safety management systems – General guidelines on principles, systems and supporting techniques*

### 3.8 If a HSMS is required, a commitment to ensure that the HSMS is audited by third party auditors

Please only complete the version of 3.9.6 that applies in your particular circumstance.

If required contact the WorkSafe enforceable Undertakings Team to determine which options are appropriate

3.9.1 Airtech acknowledges that the auditors selected to perform HSMS audits must meet the qualification requirements as set by WorkSafe

3.9.2 Airtech commits to ensuring the HSMS will be audited by certified third party auditors

3.9.3 Airtech acknowledges that details of the auditors' qualifications will be provided with audit reports submitted to WorkSafe

3.9.4 Airtech acknowledges that costs associated with these audits will be met by Airtech as part of the undertaking

3.9.5 Airtech commits to ensuring the HSMS will be audited against criteria that meets the principles

~~3.9.6 Airtech acknowledges that the current HSMS in place, as detailed in term 3.8.1 is acceptable to WorkSafe and commits to ensuring that an initial third party audit will be undertaken within three months of this undertaking being accepted~~

**OR**

(write the name of the person(s) or entity giving the undertaking)

~~3.9.6 Airtech acknowledges that there is no HSMS in place, as detailed in term 3.8.1 that is acceptable to WorkSafe and commits to ensuring that an initial third party audit will be undertaken within six months of this undertaking being accepted~~

Airtech has already had its system audited by Safe 365.

3.9.7 Airtech commits to ensuring at least two further third party audits will be undertaken at 12 month intervals, commencing 12 months after the initial audit

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### 3.9 A commitment to provide a copy of each finalised HSMS audit report to WorkSafe

3.9.1 Airtech acknowledges that audit reports received from the auditor will be sent to WorkSafe within 30 days of the audit along with written confirmation that the report has not been altered from the copy provided to the person by the auditor

3.9.2 Acknowledges that within 30 days of receipt of the auditor's written report, WorkSafe will be advised of the intended actions for addressing each of the report's recommendations

### 3.11 A commitment to implement the recommendations from third party audits

Airtech commits to ensuring the recommendations resulting from the HSMS audits will be fully implemented within six months of receiving the audit report, unless WorkSafe grants an exemption due to the actions being unreasonable

### 3.12 Minimum spend

3.12.1 Airtech commits to a minimum spend of \$76,500 for this undertaking plus GST (if any).

3.12.3 Airtech agrees to spend any residual amount arising from an original term not being completed or being less costly than estimated in this undertaking. Agreement on how to spend this residual amount will be sought from WorkSafe

(write the name of the person(s) or entity giving the undertaking)

3.12.3 Airtech

Acknowledges the minimum spend comprises of the:

<b>TOTAL COST</b>	<b>MINIMUM SPEND</b>
Financial amends paid to victims (if applicable)	10,000
Benefits to workers/others	36,500
Benefits to industry	10,000
Benefits to community	20,000
WorkSafe's recoverable costs - not exceeding	10,000
Estimated cost of the undertaking	\$ 76,500

## 4. Execution

This undertaking is given by the person on the date it is accepted by WorkSafe as set forth in section 5 below.

### Individual/sole trader

Undertaking given by (person)

On the (day) day of (month) 20 (year).

Signature of person:

Undertaking given before me:

Witness name:

Witness address:

Witness signature:

### Director or authorised representative of a company

Undertaking given by Brian Stokes in my own right and in my capacity as director of Airtech Limited

On the 28th day of March, 2018

Signature of person:

Undertaking given before me:

Witness name:

Witness address:

Witness signature:

### Partnership

Undertaking given by (partner names)

On the (day) day of (month) 20 (year).

Signature of partners:

Undertaking given before me:

Witness name:

Witness address:

Witness signature:

### Individual trustee of a trust

Undertaking given by (trustee name)

On the (day) day of (month) 20 (year).

Signature of trustee in my capacity as trustee of the (trust name)

Undertaking given before me:

Witness name:

Witness address:

Witness signature:

## Authorised representative of an organisation

Undertaking given by (name of authorised representative)

In my own right and in my capacity as (eg President, Chairperson, etc)

of (eg organisation name)

On the (day)                      day of (month)                      , 20                      (year).

Signature of the person giving the undertaking:

## 5. Acceptance

This undertaking is accepted by WorkSafe.

On the (day) *03* day of (month) *April* , 20*18* (year).

 Accepting the undertaking:

*Simon Humphries*

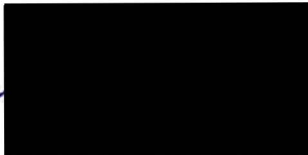
Name of WorkSafe representative: (General Manager, WorkSafe (or delegate))

Undertaking given before me:

Witness name: *Cordell Weil*

Witness address:  
*36 Customhouse Quay*

Witness signature:



*03/04/18*

This template is to be used in circumstances where one of the other legal entity descriptors (individual, company, partnership, trust) does not apply.

Possible examples, and there may be others, of when this could be used are for:

- unincorporated groups
- incorporated societies
- industrial and provident societies.

If uncertain, please seek the advice of the WorkSafe enforceable Undertakings Team.

