

PATENT ASSIGNMENT COVER SHEET

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Stylesheet Version v1.2

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SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT
CONVEYING PARTY DATA	
Name	Execution Date
SAFE OVERHEAD SYSTEMS, INC.	08/12/2010
RECEIVING PARTY DATA	
Name:	MINOVA USA, INC.
Street Address:	150 CARLEY COURT
City:	GEORGETOWN
State/Country:	KENTUCKY
Postal Code:	40324
PROPERTY NUMBERS Total: 1	
Property Type	Number
Patent Number:	7625155
CORRESPONDENCE DATA	
Fax Number:	(304)357-0919
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>	
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ATTORNEY DOCKET NUMBER:	SAV0001PA
NAME OF SUBMITTER:	MONIKA JAENSSON
SIGNATURE:	/Monika L Jaensson/
DATE SIGNED:	10/26/2021
Total Attachments: 9	
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ASSIGNMENT AGREEMENT

THIS AGREEMENT effective as of the last date in which both parties have affixed authorized signatures hereunto (the "effective date"), is by and between:

Safe Overhead Systems, Inc.
(a West Virginia corporation)
102 Thornwood Lane
Beckley, WV 25801
(hereinafter "OVERHEAD"),

and

Minova USA, Inc.
(a Delaware corporation)
150 Carley Court
Georgetown, KY 40324-9303
(hereinafter "MINOVA");

WITNESSETH:

WHEREAS, OVERHEAD is an assignee of an undivided interest to the entire right, title and interest in and to a United States patent covering inventions and discoveries related to mine roof cable bolt assembly, Patent No. 7,625,155 issued December 1, 2009 in the names of Janet Faye McKinney and Larry Brock McKinney and entitled, "MINE ROOF CABLE BOLT ASSEMBLY", as evidenced by an assignment from Larry Brock McKinney and Janet F. McKinney dated May 11, 2009, including any non-provisional application claiming the benefit thereof, any divisional or continuation applications thereof, any foreign applications corresponding to said applications, hereinafter referred to as "PATENT"; and

WHEREAS, OVERHEAD, is desirous of assigning all of its undivided interest in and to said PATENT to MINOVA; and

WHEREAS, MINOVA is desirous of owning all of OVERHEAD's undivided interest in and to said PATENT; and

NOW, THEREFORE, in consideration of the preceding and the mutual covenants recited below, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I – DEFINITIONS

When used in this Agreement, each of the following terms shall have the meaning set out in this Article.

1.1 "Affiliate" of, or an entity "Affiliated" with, MINOVA, shall mean an entity that directly or indirectly controls, is controlled by, or is under common control with MINOVA.

1.2 "Assigned Patent" shall mean any and all patents and applications disclosing Assigned Technology, including but not limited to the following patents and applications:

<u>Country</u>	<u>Application No.</u>	<u>Patent No.</u>
United States	12/434,841	7,625,155

together with all patents which may be granted thereon, and all reissues, reexaminations, extensions, patents of addition, and patents of importation thereof, all other patents and applications claiming priority thereto, domestic and foreign, and all improvements thereof and all know-how, trade secrets, technical information, drawings and other proprietary information relating to and including the Assigned Technology, Assigned Patent or Assigned Products, whether now existing or acquired or developed after the execution of this Agreement.

1.3 "Per Unit Sale" shall mean at such time as revenue is received by MINOVA or an Affiliate from the Commercial Sale of an Assigned Product to independent third parties in the Exclusive Territory provided the Assigned Product is covered by one or more valid claims of the Assigned Patent, whether individually or in combination with one or more other products, subject to the following: (i) samples provided to actual or potential customers are excluded, but shall be limited in quantities consistent with industry standards, and (ii) credits or allowances actually granted upon claims or returns, regardless of the party making the claim or requesting the return, shall be excluded or credited against future sales. Although it is recognized by the parties that a patent claim is not "valid" until finally approved in a granted patent, the definition of "Per Unit Sale" is intended by the parties to include Assigned Products sold which are covered only by pending claims in pending patent applications that the parties believe, in good faith, to be valid.

1.4 "Assigned Products" shall mean and include Assigned Technology including but not limited to (i) a mine roof cable bolt assembly, which is further defined in the utility patent application identified in Section 1.2; (ii) any other product whether now existing or acquired or developed incorporating all or any part of an Assigned Technology to the extent such product is covered by one or more pending or issued claims of one or more of said Assigned Patent; or (iii) any product, the manufacture importation, use or sale of which would, if not assigned, infringe a Valid Claim of an issued patent in Assigned Patent.

1.5 "Valid Claim" shall mean a claim in any unexpired patent or pending application in Assigned Patents which has not been held invalid by a final non-appealed or unappealable decision by a court or other body of competent jurisdiction. The scope of a Valid Claim shall be limited to its terms as defined by any such court or appropriate body of competent jurisdiction.

1.6 "Exclusive Territory" shall mean all areas of the world, including without limitation North America, South America, Europe, Asia and Australia.

1.7 "Assigned Technology" shall mean all confidential and/or proprietary information, knowledge and experience, relating to Assigned Products (as hereinafter defined) which is

available to or controlled by OVERHEAD as of the effective date and thereafter and which OVERHEAD has the right to acquire and use and authorize others to use and shall include, but shall not be limited to, test data, technical and engineering information, drawings, charts, graphs, operating procedures, bills of material and the like.

1.8 "Improvement" shall mean any change or modification to the Assigned Patent or any Assigned Technology, any development improving the performance of an Assigned Product or impacting or reducing the manufacturing and/or installation cost thereof, and any technology useful with a Assigned Product, whether such improvement is patented or not.

1.9 "Commercial Sale" shall mean a transaction by MINOVA or an Affiliate which transfers to a purchaser physical possession or title to an Assigned Product.

ARTICLE II – GRANTS AND COVENANTS

2.1 OVERHEAD does hereby assign, sell and set over to MINOVA, its successors, assigns or other legal representatives, all of its undivided interest to the entire right, title and interest, domestic and foreign, in and to said Assigned Patent (which includes the Assigned Product and Assigned Technology).

2.2 MINOVA hereby accepts the transfer and assignment of all of OVERHEAD's worldwide right, title and interest in, to and under the Assigned Patent, together with the goodwill of the business associated therewith and which is symbolized thereby, all rights to sue for infringement of the Assigned Patent, whether arising prior to or subsequent to the effective date of this Agreement, and any of all renewals and extensions therefor that may hereafter be secured under the laws now or hereafter in effect in the United States and in any other jurisdiction, the same to be held and enjoyed by MINOVA, its successors and assigns from and after the date hereof as fully and entirely as the same would have been held and enjoyed by OVERHEAD has this Assignment not been made.

2.3 OVERHEAD hereby agrees for itself, its successors, assigns or other legal representatives to execute any and all papers and to perform any and all acts which MINOVA, its successors, assigns or other legal representatives may deem reasonably necessary to secure thereto the rights herein assigned, sold and set over.

2.4 OVERHEAD covenants and agrees not to receive compensation or remuneration of any kind from any third party as related to MINOVA's purchase of raw material, manufacture, sale or disposal of Assigned Products except with the prior written approval of MINOVA.

2.5 OVERHEAD covenants and agrees not to develop, manufacture, sell or distribute in any way, directly or indirectly, any product, technology, know-how, process or other intellectual property which would be competitive with the Assigned Products except to the extent such activity is for the sole and exclusive benefit of MINOVA. Provided, however, OVERHEAD shall be permitted to develop, manufacture, sell or distribute the technology defined in that utility patent application no. 12685711 as well as any improvements thereon. Provided further, MINOVA shall have a right of first refusal to purchase said technology.

ARTICLE III - COMPENSATION

3.1 In consideration for the rights conveyed to MINOVA under Article II hereof, MINOVA shall pay OVERHEAD a one-time non-refundable issue fee of seventy-five thousand dollars (\$75,000.00). Such payment shall be made on or before ten (10) days following the effective date. The issue fee shall not be considered part of the royalties to be paid as hereinafter provided, but are to compensate OVERHEAD for its costs and expenses in the filing and maintenance of the Assigned Patent in the United States, the development of the Assigned Products, and the Assigned Technology.

3.2 MINOVA shall also pay, as herein provided, royalties to OVERHEAD in the amount of forty (40) cents (\$0.40) Per Unit Sale for the first one-hundred thousand (100,000) Assigned Products sold and twenty-five (25) cents (\$0.25) Per Unit Sale after reaching one-hundred thousand (100,000) of Assigned Products sold. All royalty payments are to be accompanied by a report confirming Per Unit Sales by MINOVA and its Affiliates for the payment period. Royalties paid on Assigned Products which are not finally accepted by the third party shall be credited to MINOVA.

3.3 MINOVA will take all actions reasonably necessary to develop, produce and market the Assigned Products within eighteen (18) months from the closing date hereof (the "Development Term"). If, after such eighteen (18) month period MINOVA has not begun to actively market the Assigned Products but is using reasonable efforts to do so, MINOVA may extend the Development Term for up to an additional twelve (12) months.

3.4 If after the expiration of the Development Term, as may be extended, MINOVA has been unable to develop, produce and market the Assigned Products, then OVERHEAD shall have an option to repurchase the Assigned Patent at a purchase price equal to and upon payment of ten dollars (\$10) to MINOVA. Said option shall expire and be of no further force or effect if not exercised by OVERHEAD by notice to MINOVA within thirty (30) days of the expiration of the Development Term. The parties hereto further expressly acknowledge and agree that the option provided for herein is expressly conditioned on MINOVA's failure to develop, produce and market the Assigned Products within the Development Term.

ARTICLE IV - RECORD KEEPING AND PAYMENT

4.1 MINOVA shall keep complete and accurate records of the sales of Assigned Products and, within thirty (30) days following the end of each calendar quarter, MINOVA shall render to OVERHEAD a written report setting forth the amount of the royalty due and payable on such Assigned Products during such calendar quarter, and MINOVA shall, upon rendering such report, remit to OVERHEAD the amount of royalty shown thereby to be due.

4.2 OVERHEAD shall have the right, at its sole discretion and expense, to nominate an independent accountant acceptable to and approved by MINOVA who, after executing a confidentiality agreement acceptable to MINOVA, shall have access to MINOVA's records during reasonable business hours for the purpose of verifying the royalty payable as provided for

in this Agreement for the two preceding calendar years, but this right may not be exercised more than once in any year, and the accountant shall disclose to OVERHEAD only information relating solely to the accuracy of the royalty report and the royalty payments made according to this Agreement. In the event that the royalties paid are more than fifteen percent (15%) lower than the verified royalties payable, MINOVA shall pay the reasonable costs associated with such verification under this paragraph.

ARTICLE V - REPRESENTATIONS AND WARRANTIES

5.1 OVERHEAD expressly warrants and represents that it owns all of the right, title and interest in and to the Assigned Patent.

5.2 OVERHEAD expressly warrants and represents that it has no outstanding encumbrances or agreements, either written, oral, or implied, involving the Assigned Patent or which would conflict with the rights granted hereunder, and that it has not granted any similar rights, licenses, consents, or privileges, with respect to the rights granted herein.

5.3 OVERHEAD warrants and represents that it is presently aware of no patents or patent applications or other rights owned by a third party which would present any issue of infringement by reason of the use of the Assigned Patent or the manufacture, use, or sale of the Assigned Product.

5.4 OVERHEAD warrants that it has the right to grant the rights and assignment provided for in this Agreement, and each party warrants to the other that it has the right to enter into this Agreement.

5.5 OVERHEAD represents and warrants that it has the exclusive right within the United States to make, have made, use or sell the invention disclosed in the Assigned Patent.

5.6 OVERHEAD represents that the Assigned Patent is currently in compliance with formal legal requirements (including payment of filing, examination and maintenance fees and proofs of working or use), is valid and enforceable, and is not subject to any maintenance fees or taxes or actions falling due within ninety (90) days after the Closing Date.

5.7 OVERHEAD represents that the Assigned Patent has never been or is not currently involved in any interference, reissue, reexamination, or opposition Proceeding. To OVERHEAD's knowledge, there is no potentially interfering patent or patent application of any third party.

5.8 OVERHEAD represents that the Assigned Patent is not infringed or, to OVERHEAD's knowledge, has not been challenged or threatened in anyway and that none of the Assigned Products manufactured or sold, nor any process or know-how used, by OVERHEAD infringes or is alleged to infringe any patent or other proprietary right of any other person.

5.9 OVERHEAD represents that all Assigned Products made, used or sold under the Assigned Patent have been marked with proper patent notice.

5.10 OVERHEAD shall promptly notify MINOVA of each Improvement, which shall in no event be later than thirty (30) days subsequent to its development and/or acquisition and/or filing for a patent thereon.

ARTICLE VI - THIRD PARTY INFRINGEMENT

6.1 In the event there is infringement within the Exclusive Territory by a third party of any patent assigned to MINOVA hereunder, MINOVA shall notify OVERHEAD in writing to that effect, including with said written notice evidence establishing a prima face case of infringement by such third party.

6.2 OVERHEAD shall cooperate with MINOVA in any suit for infringement of a Assigned Patent brought by MINOVA against a third party, and shall have the right to consult with MINOVA and to participate in and be represented by independent counsel in such litigation at its own expense.

6.3 Should OVERHEAD fail to reasonably cooperate with MINOVA in any suit for infringement of a Assigned Patent brought by MINOVA against a third party, then MINOVA, at its sole discretion, may reduce the royalty payable to OVERHEAD by an amount sufficient to recover any costs, expenses, discounts and/or other damages incurred as a result of competition, direct or indirect, with the third party infringer, it being understood that such reduction is a transaction specifically made a part of this Agreement.

ARTICLE VII - INDEMNIFICATION

7.1 OVERHEAD shall defend, indemnify and hold MINOVA harmless from and against any damages, liabilities, costs and expenses (including reasonable attorneys' fees and court costs) arising out of (i) the breach of any representation or warranty contained herein; or (ii) any claim that MINOVA's practice or use of the Assigned Patent or making, use or sale of the Assigned Product infringes a valid intellectual property right or represents a misappropriation of a trade secret of a third party provided, however, that: (A) MINOVA shall have promptly provided OVERHEAD with written notice thereof and reasonable cooperation, information, and assistance in connection therewith; and (B) MINOVA shall have sole control and authority with respect to the defense, settlement, or compromise thereof.

7.2 Where, in the judgment of MINOVA it is necessary to use OVERHEAD's name to prosecute or defend an action pursuant to Section 7.1, OVERHEAD agrees to allow MINOVA to so use its name; provided, however, MINOVA agrees to hold OVERHEAD harmless against any award of court costs or damages resulting solely from the use of OVERHEAD's name by MINOVA in such action.

ARTICLE VIII - FURTHER PROVISIONS

8.1 This Agreement shall not be assignable by OVERHEAD without MINOVA's prior written consent. This Agreement shall be binding on and inure to the benefit of either party's successors, assigns or other legal representatives.

8.2 The waiver by either party, whether express or implied, of any provisions of this Agreement, or of any breach or default of the other party, shall not be construed to be a continuing waiver of such provision, or of any succeeding breach or default or of a waiver of any other provisions of this Agreement.

8.3 All matters affecting the interpretation, validity, and performance of this Agreement shall be governed by the internal laws of the Commonwealth of Kentucky without regard to its conflict of law principles, except as otherwise expressly provided herein.

8.4 Should any part or provision of this Agreement be held unenforceable or in conflict with the law of any jurisdiction, the validity of the remaining part or provisions shall not be affected by such holdings.

8.5 Any provision hereof which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

8.6 Any delays in or failures of performance by either party under this Agreement shall not be considered a breach of this Agreement if and to the extent caused by occurrences beyond the reasonable control of the party affected, including but not limited to: acts of God; acts, regulations or laws of any government; strikes or other concerted acts of workers; fires; floods; explosions; riots; wars; rebellions; and sabotage; and any time for performance hereunder shall be extended by the actual time of delay caused by such occurrence.

8.7 It is the mutual desire and intent of the parties to provide certainty as to their future rights and remedies against each other by defining the extent of their mutual undertakings as provided herein. The parties have, in this Agreement incorporated all representations, warranties, covenants, commitments and understandings on which they have relied in entering into this Agreement, and, except as provided for herein, the parties make no covenant or other commitment to the other concerning its future action. Accordingly, this Agreement: (i) constitutes the entire agreement and understanding between the parties and there are no premises, representations, conditions, provisions or terms related thereto other than those set forth in this Agreement and (ii) supersedes all previous understandings, agreements and representations between the parties, written or oral. This Agreement may not be changed, modified, released, discharged, or abandoned except by an instrument in writing signed by an authorized representative of each party hereto. The terms and conditions of any Consulting Agreement entered into between MINOVA and representative of OVERHEAD are excluded from the application of this Section 8.7.

8.8 All communications, report, payments, and notices required by this Assignment Agreement by one party to the other shall be addressed to the parties at their respective addresses set forth below or to such other address as requested by either party by notice in writing to the other.

If to OVERHEAD:

Safe Overhead Systems, Inc.
Attention: Janet McKinney
102 Thornwood Lane
Beckley, WV 25801
Fax: (304) 256-2295

With copy to:

Roop Law Office, L.C.
Attention: Paul W. Roop, II
PO Box 1145
Beckley, WV 25802-1145
Fax: (304) 256-2295

If to MINOVA:

Minova USA, Inc.
Attention: James L. Earl, Jr., President and CEO
150 Carley Court
Georgetown, KY 40324-9303
Fax: (502) 863-1374

With copy to:

Huddleston Bolen LLP
Attention: Daniel A. Earl, Esq.
P.O. Box 2185
Huntington, WV 25722
Fax: (304) 522-4312

All such notices, reports, payments, and communications shall be made by facsimile and by First Class mail, postage prepaid, and shall be considered made at the earlier of when post marked or confirmed to be received by facsimile.

8.9 OVERHEAD agrees to execute such instruments as MINOVA may reasonably request in order more effectively to assign, transfer, grant, convey, assure and confirm to MINOVA and its successors and assigns, or to aid and assist in the collection of or reducing to possession by MINOVA of the Assigned Patent, Assigned Products or Assigned Technology.

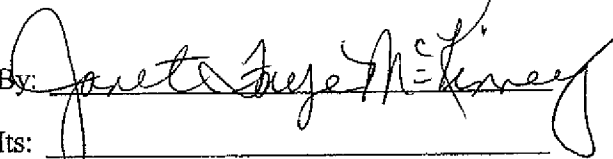
8.10 This Agreement embodies the entire understanding of the Parties and shall supersede all previous communications, representations or undertakings, either verbal or written, between the Parties relating to the subject matter hereof.

8.11 Any dispute hereunder shall be submitted to binding arbitration in accordance with the rules of the American Arbitration Association or, with the agreement of the parties, upon such terms as agreed to by the parties. Venue for any arbitration hereunder shall be Lexington, Kentucky.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement the day and year last written below.

Date: 5/12/, 2010

SAFE OVERHEAD SYSTEMS, INC.

By: 
Its: _____

Date: _____, 2010

MINOVA USA, INC.

By: 
Its: James L. Earl, Jr.
President and CEO