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TRADE PRACTICES ACT 1974

UNDERTAKING TO THE AUSTRALIAN COMPETITION AND
CONSUMER COMMISSION GIVEN FOR THE PURPOSES OF

SECTION 87B

BY

AGL ENERGY LIMITED (ACN 115 061 375),
GREAT ENERGY ALLIANCE CORPORATION PTY LIMITED (ACN 105 266 028) and
GEAC OPERATIONS PTY LIMITED (ACN 105 367 888)

Background

1. In 2003, a consortium comprising The Australian Gas Light Company (**AGL**) (ACN 052 167 405), Tokyo Electric Power Company International B.V. (**TEPCO**) and certain financial investors then including the Commonwealth Bank of Australia (**Financial Investors**) proposed to acquire the electricity generation business in Victoria then conducted by the partners in the Loy Yang Power Partnership and known as Loy Yang A, with AGL holding a 35% interest, and, at the time of acquisition, the Financial Investors holding a 30% interest and TEPCO holding 35% interest in that business through Great Energy Alliance Corporation Pty Limited and GEAC Operations Pty Limited (**GEAC**).
- 2.1 The Federal Court Decision of 19 December 2003 in the matter of *The Australian Gas Light Company v The Australian Competition and Consumer Commission* included an Undertaking (**the Court Undertaking**) upon which a Declaration was made. A further undertaking was given in addition to the Court Undertaking solely for the purpose of ensuring compliance with the Court Undertaking and the Trade Practices Act (**the First s 87B Undertaking**). The First s 87B Undertaking was replaced by another undertaking on 1 August 2006 (**the Second s 87B Undertaking**). The Undertaking below replaces the Second s 87B Undertaking.
- 2.2 The parties to the Federal Court proceeding and AGL Energy Limited (ACN 115 061 375) (**AGL Energy**) (which has been joined as a party to that proceeding) have consented to the filing of short minutes of order with the Court in that proceeding which, if made, would discharge the Court Undertaking provided by AGL subject to the completion of the transactions contemplated by two interdependent schemes of arrangement and subject also to AGL Energy providing an undertaking to the Court in a substantially similar form to that previously given by AGL (**AGL Energy Court Undertaking**). The Undertaking below is in addition to the AGL Energy Court Undertaking and solely for the purpose of ensuring compliance with the AGL Energy

Court Undertaking and the Trade Practices Act. These undertakings are to come into effect at the same time as the completion of the transactions contemplated by the following interdependent schemes of arrangement:

- (a) the scheme of arrangement between AGL and the holders of ordinary shares issued in AGL which is the subject of the application by AGL to the Federal Court in proceeding NSD 1568 of 2006; and
- (b) the scheme of arrangement between Alinta Limited (ACN 087 857 001) (**Alinta**) and the holders of ordinary shares issued in Alinta which is the subject of the application by Alinta to the Federal Court in proceeding NSD 1580 of 2006.

Definitions

- 3. Definitions in these Undertakings are as in the AGL Energy Court Undertaking and the following additional definition.

Hedge Position Statement means information in relation to hedge contracts, derivative contracts or power purchase agreements in the form set out in Schedule 1 or such other information or form that would be relevant to hedging arrangements, as the Commission, acting reasonably, may request in writing.

AGL Energy Undertakings

- 4.1 AGL Energy must provide the Commission with a Hedge Position Statement in respect of all hedges, derivative transactions and power purchase agreements relating to its Victorian load with all of its counterparties (excluding information which would identify counterparties other than Loy Yang Power Station) at the written request of the Commission which can only be made if and when the independent auditor states in its review that information has come to its attention that indicates that Market Management Company has not contracted with AGL, in all significant respects, on an arm's length basis during the review period, as required under clause 6.1 that there has been a breach of clause 3.2(c) of the AGL Energy Court Undertaking.
- 4.2 The Commission may at any time request in writing that AGL Energy provide such written information that the Commission reasonably requires for the purpose of ensuring compliance with paragraphs 3.1 to 3.4 of the AGL Energy Court Undertaking.
- 4.3 AGL Energy must promptly comply with any reasonable requests made by the Commission under paragraphs 4.1 and 4.2.

GEAC Undertakings

- 5.1 GEAC will procure that the entity appointed pursuant to clause 3.2(a) (the Agent) of the AGL Energy Court Undertaking will provide the Commission with a Hedge Position Statement in respect of all hedges, derivative transactions and power purchase agreements relating to the Loy Yang Power Station with all of its counterparties (excluding information which would identify the identity of non-AGL Energy counterparties) at intervals of six months commencing from the date of this Undertaking; and as and when reasonably requested by the Commission in response to market circumstances which would not ordinarily be expected to occur in the ordinary workings of the NEM.
- 5.2 The Commission may at any time request in writing that GEAC provide such written information that the Commission reasonably requires for the purpose of ensuring compliance with paragraphs 3.1 to 3.4 of the AGL Energy Court Undertaking.
- 5.3 GEAC must promptly comply with, and procure the Agent to promptly comply with, any reasonable requests made by the Commission under paragraphs 5.1 and 5.2.

Independent Audit

- 6 GEAC and AGL undertake that they will jointly appoint an independent auditor (at their expense) from among the major accounting firms to undertake a review (in accordance with Australian Accounting Standards) on a six monthly basis of compliance with Clause 3.2(c) of the Court Undertaking. Such appointment is to be approved by the Commission before the independent auditor who has been appointed under these or any antecedent undertaking is replaced. The Commission shall approve an auditor by selecting one auditor from two alternative auditors nominated by GEAC and AGL. The independent auditor will provide a report substantially in the form of Schedule 2, which GEAC and AGL will then provide to the Commission. In the event that the independent auditor's report notes any instance of non-compliance, at the written request of the Commission, AGL and GEAC will provide, and where appropriate GEAC will procure the Agent to provide, to the Commission all of the information provided by or on behalf of AGL and GEAC to the independent auditor.

Confidentiality

7. The Commission will ensure that all information received by it pursuant to these Undertakings will be kept confidential and not disclosed to any person, save and except as may be required in relation to any proceedings before a Court in respect of

these Undertakings, the AGL Energy Court Undertaking or any enforcement action under the Trade Practices Act.

Enforcement Action Clause

8. For the avoidance of doubt, the Commission may take enforcement action at any time whether:

(c) during the period of these Undertakings; or

(d) after the period of these Undertakings,

in respect of any breach by AGL Energy or GEAC of a term of these Undertakings which occurred before the expiry of these Undertakings.

Commencement and Cessation

9 These Undertakings commence on the date which is the later of their execution by AGL Energy and GEAC and the acceptance of these Undertakings by the Commission.

10. Subject to clause 8, these Undertakings apply only for the period that the AGL Energy Court Undertaking is in force and these Undertakings cease if the AGL Energy Court Undertaking ceases.

11. By consent of the Commission, upon the commencement of this undertaking, the undertaking given to the Commission on 2 February 2004 is withdrawn.

The Commission

Name: The Australian Competition and Consumer Commission
Address: PO Box 1199, Dickson ACT 2602; 470 Northbourne Ave, Dickson, ACT 2602
Fax number: (02) 6243 1211
Attention: The Chairman

AGL Energy

Name: AGL Energy Limited
Address: AGL Centre, 72 Christie Street, St Leonards, NSW 2065

Fax number: 02 9921 2096
Attention: General Counsel

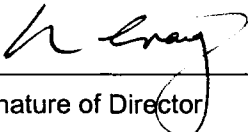
GEAC

Name: Great Energy Alliance Corporation Pty Limited
Address: PO Box 1799 Traralgon Vic 3844; Level 27 459 Collins St Melbourne Vic 3000
Fax number: 03 5173 3533
Attention: The Company Secretary

Name: GEAC Operations Pty Limited
Address: PO Box 1799 Traralgon Vic 3844; Level 27 459 Collins St Melbourne Vic 3000
Fax number: 03 5173 3533
Attention: The Company Secretary

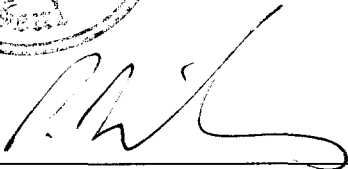


The Common Seal of **AGL ENERGY LIMITED ACN 115 061 375** is fixed in the presence of:



Signature of Director
DAVID CRAIG


Name of Director (print)



Signature of ~~Director~~/Secretary
PAUL MCWILLIAMS

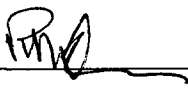
Name of ~~Director~~/Secretary (print)

Signed on behalf of **GREAT ENERGY ALLIANCE CORPORATION PTY LIMITED ACN 105 266 028** in the presence of:



Signature of
Fuyuhiko Nishimura

Name (print):



Witness
ROBERT EVANS

Name of Witness:

Signed on behalf of **GEAC OPERATIONS
PTY LIMITED ACN 105 367 888** in the
presence of:



Signature of

Fuyuhiko Nishimura

Name (print):



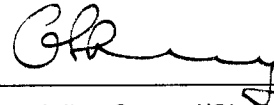
Witness

ROBERT EVANS

Name of Witness:

DATED

**ACCEPTED BY THE AUSTRALIAN
COMPETITION AND CONSUMER
COMMISSION**



Graeme Julian Samuel/Chairman

DATED 4th October 2006.

Schedule 1
Hedge Position Statement

Part A: For each contract entered into with AGL Energy:

Total peak quantity (MWh)*

Total off-peak quantity (MWh)*

Start date

Finish date or duration

Contract type (power purchase/swap/ cap/ other (including captions/swaptions and any other types of contract under which the price of electricity is hedged)

Part B: For each contract entered into with a party other than AGL Energy:

Total peak quantity (MWh)*

Total off-peak quantity (MWh) *

Start date

Finish date or duration

Contract type (power purchase/swap/ cap/ other (including captions/swaptions and any other types of contract under which the price of electricity is hedged)

* *If the total quantity cannot be ascertained at the time of filing the Statement, a best estimate of the quantity will be provided*

Schedule 2

Strictly Confidential