



## Australian Power and Gas Company Limited

### Notice of General Meeting and Explanatory Memorandum

For a general meeting of shareholders to be held on  
Tuesday, 28 August 2007, at Milson Room, Vibe Hotel North Sydney,  
8 Alfred Street, Milsons Point NSW 2061, at 11.00am

Dear Shareholder

### Notice of General Meeting

I am writing to you as a shareholder of Australian Power and Gas Company Limited (the **Company**). The Company is convening a general meeting to amongst other things:

- approve the issue of shares to Cornell Capital Partners, L.P., (**Cornell**) a US based investment fund, under both a Standby Equity Facility Agreement and a Convertible Loan Agreement entered into between the Company and Cornell;
- approve the issue of convertible notes and options to Fortress Credit Corporation (Australia) II Pty Limited (**Fortress Credit**) under agreements entered into between the Company and Fortress Credit;
- approve the issue of options under the Company's employee share option plan; and
- approve the issue of options to Mr Wayne Bellman and Mr Ian McGregor, directors of the Company.

The proposed issue of shares to Cornell and Fortress Credit is part of the new finance facilities arranged by the Company to fund the Company's growth strategy and to assist the Company in its business plan, forecast growth and financial targets.

The proposed issue of options under the ESOP and to Mr Bellman and Mr McGregor reflect the Company's desire to ensure it attracts and retains the best employees and officers for the benefit of the Company.

Attached to this letter is a Notice of General Meeting and an Explanatory Memorandum setting out details on each of the resolutions to be proposed at the general meeting.

The Board considers that the approval of each of the resolutions is an important step in the continued development of the Company and each of the directors (except Mr McGregor with respect to Resolution 10 and Mr Bellman with respect to Resolution 11) recommends that shareholders vote in favour of each of the Resolutions to be proposed at the general meeting as each of them intends to do with regard to their own shareholdings in the Company.

If you are unable to attend the general meeting, I encourage you to vote using the enclosed Proxy Form. If you are able to attend, please bring a copy of your proxy form with you to facilitate your entitlement to vote.

If you have any questions, please contact the Company on (02) 8908 2700 or David Franks (Company Secretary) on (02) 9419 2966. Thank you for your continued investment and support.

Yours sincerely



Signature

**Anne Harley**  
**Chairman**

# Australian Power and Gas Company Limited ACN 077 206 583

## Notice of General Meeting

Notice is given that a general meeting of shareholders of Australian Power and Gas Company Limited ACN 077 206 583 (**Company**) will be held on:

**Date:** Tuesday, 28 August 2007

**Time:** 11.00am

**Place:** Milson Room, Vibe Hotel North Sydney, 88 Alfred Street, Milsons Point NSW 2061

This notice is issued by the Company.

## Agenda

### **Resolution 1 - Approval of previous issue of securities under Standby Equity Facility Agreement with Cornell**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution of the Company:

*“That for the purposes of Listing Rule 7.4 of the Listing Rules of ASX Limited and for all other purposes, the previous issue of the following securities to Cornell Capital Partners, L.P. (**Cornell**) under the terms of the Standby Equity Facility Agreement between the Company and Cornell dated 15 May 2007 details of which are set out in the Explanatory Memorandum accompanying the Notice of General Meeting convened this meeting (**SBEF**) be authorised and approved:*

- (a) 167,006 Shares at an issue price of \$0.59878 per Share in connection with the drawdown of A\$100,000 under the SBEF; and
- (b) 248,757 Shares at an issue price of \$0.67 per Share in connection with the payment of fees of A\$166,667 under the SBEF.”

### **Resolution 2 - Approval of issues of securities under Standby Equity Facility Agreement with Cornell**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution of the Company:

*“That for the purposes of Listing Rule 7.1 of the Listing Rules of ASX Limited and for all other purposes, the Company be authorised to issue up to a maximum of 4,000,000 fully paid ordinary shares in the Company (**Shares**) to Cornell Capital Partners, L.P. (**Cornell**) in accordance with the terms of the Standby Equity Facility Agreement between the Company and Cornell dated 15 May 2007 details of which are set out in the Explanatory Memorandum accompanying the Notice of General Meeting convening this meeting, and provided that the issue price of such Shares is not less than 80% of the average market price of the Shares on the ASX over the 5 trading days prior to the date of issue of the Shares.”*

**Resolution 3 – Approval of issue of securities under Convertible Loan Agreement with Cornell**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution of the Company:

*“That for the purposes of Listing Rule 7.1 of the Listing Rules of ASX Limited and for all other purposes, the Company be authorised to issue up to a maximum of 4,000,000 fully paid ordinary shares in the Company (**Shares**) to Cornell Capital Partners, L.P. (**Cornell**) in accordance with the repayment schedule and other terms of the Convertible Loan Agreement between the Company and Cornell dated 15 May 2007 details of which are set out in the Explanatory Memorandum accompanying the Notice of General Meeting convening this meeting, and provided that the issue price of such Shares is not less than 80% of the average market price of the Shares on the ASX over the 5 trading days prior to the date of issue of the Shares.”*

**Resolution 4 – Approval of issue of options under Convertible Loan Agreement with Cornell**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution of the Company:

*“That for the purposes of Listing Rule 7.4 of the Listing Rules of ASX Limited and for all other purposes, the previous issue to Cornell Capital Partners, L.P. (**Cornell**) of Series A Options to acquire 400,000 fully paid ordinary shares in the Company (**Shares**), Series B Options to acquire 400,000 Shares and Series C Options to acquire 400,000 Shares (together **Options**) be authorised and approved, and that the Company be authorised to issue in aggregate up to 1,200,000 Shares to Cornell upon the exercise of each of the Options, in accordance with the terms of the Convertible Loan Agreement between the Company and Cornell dated 15 May 2007 details of which are set out in the Explanatory Memorandum accompanying the Notice of General Meeting convening this meeting.”*

**Voting Exclusion Statement (Resolutions 1 to 4)**

The Company will disregard any vote cast on Resolutions 1 to 4 (inclusive) by Cornell Capital Partners, L.P. or any of its associates. However, the Company need not disregard a vote if:

- it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- it is cast by a person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

### **Resolution 5 – Approval of previous issue of Convertible Notes to Fortress Credit**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution of the Company:

*“That for the purposes of Listing Rule 7.4 of the Listing Rules of ASX Limited and for all other purposes, the previous issue by the Company to Fortress Credit Corporation (Australia) II Pty Limited of 4,000,000 convertible notes with a face value of \$1.00 each (**Notes**) be authorised and approved, and the Company be authorised to issue such number of fully paid ordinary shares in the Company (**Shares**) upon the conversion or redemption of such Notes in accordance with the terms of the Convertible Note Deed Poll dated 22 June 2007, details of which are described in the Explanatory Memorandum accompanying the Notice of General Meeting convening this meeting.”*

### **Resolution 6 – Approval of future issue of Convertible Notes to Fortress Credit**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution of the Company:

*“That for the purposes of Listing Rule 7.1 of the Listing Rules of ASX Limited and for all other purposes, the Company be authorised to issue to Fortress Credit Corporation (Australia) II Pty Limited up to 6,000,000 convertible notes (**Notes**) and that the Company be authorised to issue such number of fully paid ordinary shares in the Company (**Shares**) upon the conversion or redemption of such Notes in accordance with the terms of the Convertible Note Deed Poll dated 22 June 2007, details of which are described in the Explanatory Memorandum accompanying the Notice of General Meeting convening this meeting.”*

### **Resolution 7 – Approval of issue of options to Fortress Credit**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution of the Company:

*“That for the purposes of Listing Rule 7.1 of the Listing Rules of ASX Limited and for all other purposes, the Company be authorised to issue to Fortress Credit Corporation (Australia) II Pty Limited (**Fortress Credit**) 3,500,000 options to subscribe for fully paid ordinary shares in the Company (**Options**), and that the Company be authorised to issue such number of fully paid ordinary shares in the Company (**Shares**) upon the exercise of such Options in accordance with the terms of the Option Deed between the Company and Fortress Credit dated 22 June 2007, details of which are described in the Explanatory Memorandum accompanying the Notice of General Meeting convening this meeting.”*

### **Voting Exclusion Statement (Resolutions 5 to 7)**

The Company will disregard any vote cast on Resolutions 5 to 7 (inclusive) by Fortress Credit Corporation (Australia) II Pty Limited or any of its associates. However, the Company need not disregard a vote if:

- it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- it is cast by a person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

### **Resolution 8 – Approval of previous issues of options under Employee Share Option Plan**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution of the Company:

*“That for the purposes of Listing Rule 7.4 of the Listing Rules of ASX Limited and for all other purposes, the previous issue by the Company of 1,571,430 options to, or for the benefit of employees of the Company in accordance with the terms of the Company’s Employee Share Option Plan be authorised and approved, details of which are described in the Explanatory Memorandum accompanying the Notice of General Meeting convening this meeting.”*

#### **Voting Exclusion Statement (Resolution 8)**

The Company will disregard any vote cast on Resolution 8 by Andrew Butler, Tom Gilpin, Anthony Wiseman and Warren Kember or any of their respective associates. However, the Company need not disregard a vote if:

- it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- it is cast by a person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

### **Resolution 9 – Approval of issue of options under Employee Share Option Plan**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution of the Company:

*“That for the purposes of exception 9 of Listing Rule 7.2 of the Listing Rules of ASX Limited and for all other purposes, the issue of options to, or for the benefit of employees of the Company under the Company’s Employee Share Option Plan (**Plan**) up to the limit set out in the Plan be authorised and approved, details of which are described in the Explanatory Memorandum accompanying the Notice of General Meeting convening this meeting.”*

#### **Voting Exclusion Statement (Resolution 9)**

The Company will disregard any vote cast on Resolution 9 by any director of the Company that is eligible to participate in the ESOP or any of their respective associates. However, the Company need not disregard a vote if:

- it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- it is cast by a person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

### **Resolution 10 – Issue of options to Ian McGregor**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution of the Company:

*“That for the purposes of Section 208 of the Corporations Act 2001 (Cth), Listing Rule 10.11 of the Listing Rules of ASX Limited and for all other purposes, approval is given for the Directors to allot and issue 200,000 options each to acquire a fully paid ordinary share in the Company (**Share**) to Mr Ian McGregor (or his nominee) and otherwise on the terms described in the Explanatory Memorandum accompanying the Notice of General Meeting convening this meeting.”*

### **Voting Exclusion Statement (Resolution 10)**

The Company will disregard any vote cast on Resolution 10 by Mr Ian McGregor or his associates. However, the Company need not disregard a vote if:

- it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- it is cast by a person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

### **Resolution 11 – Issue of options to Wayne Bellman**

To consider and, if thought fit, to pass the following resolution as an ordinary resolution of the Company:

*“That for the purposes of Section 208 of the Corporations Act 2001 (Cth), Listing Rule 10.11 of the Listing Rules of ASX Limited and for all other purposes, approval is given for the Directors to allot and issue 200,000 options each to acquire a fully paid ordinary share in the Company (**Share**) to Mr Wayne Bellman (or his nominee) and otherwise on the terms described in the Explanatory Memorandum accompanying the Notice of General Meeting convening this meeting.”*

### **Voting Exclusion Statement (Resolution 11)**

The Company will disregard any vote cast on Resolutions 11 by Mr Wayne Bellman and his associates. However, the Company need not disregard a vote if:

- it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- it is cast by a person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

## Explanatory Memorandum

The Explanatory Memorandum forms part of this Notice of General Meeting and should be read in conjunction with it.

### Appointment of proxy

A shareholder entitled to attend and vote at the meeting may appoint a person as the shareholder's proxy to attend and vote for the shareholder at the meeting. The person appointed as a proxy may be an individual or a body corporate. If a shareholder chooses to appoint a body corporate as its proxy, the body corporate may appoint a representative to exercise the powers that the body corporate may exercise as the shareholder's proxy.

### Number of proxies and proportion of votes per proxy

A shareholder entitled to attend and vote is entitled to appoint one or two proxies to attend and vote in their place. If two proxies are appointed, the shareholder may specify the proportion or number of votes which each proxy may exercise. If no proportion or number is specified, each proxy may exercise half of the shareholder's votes.

### Proxy need not be shareholder

A proxy need not be a shareholder of the Company.

### Lodgement of proxy forms

A proxy form is enclosed with this Notice of General Meeting. A proxy form and the authority (if any) under which it is signed or a certified copy of that authority must be deposited or faxed to Australian Power and Gas Company Limited not less than 48 hours before the time for commencement of the meeting.

To be valid, you must send your completed proxy form by post, fax or email to:

Mr David Franks  
Company Secretary  
Australian Power and Gas Company Limited  
Suite 206, The Bentleigh  
1 Katherine Street  
Chatswood  
NSW 2067

Fax : (02) 9419 2944

Email : [dfranks@fa.com.au](mailto:dfranks@fa.com.au)

to be received no later than 11.00am on Sunday, 26 August 2007.

Appointing a proxy will not stop you attending the meeting in person and voting at the meeting instead of your proxy.

## Directing your proxy

You can direct your proxy how to vote by marking the “for”, “against” or “abstain” boxes on the Proxy Form. If you choose to direct your proxy but do not mark the boxes correctly, the proxy’s vote will be invalid. If you have appointed someone other than the Chairman as your proxy and do not direct them how to vote, that person may vote, or abstain from voting, at their discretion.

## No direction (where Chairman is proxy)

If the Chairman is your proxy and you do not specifically direct how your proxy is to vote on a resolution, you will be taken to have directed your proxy to vote in favour of that resolution.

By order of the Board

A handwritten signature in black ink, appearing to read 'D. Franks', with a long horizontal flourish extending to the right.

David Franks  
Company Secretary  
23 July 2007

## Australian Power and Gas Company Limited ACN 077 206 583

### Explanatory Memorandum to shareholders

This Explanatory Memorandum has been prepared for the information of shareholders of the Company in connection with the business to be conducted at the General Meeting of the Company to be held on Tuesday, 28 August 2007 at Milson Room, Vibe Hotel North Sydney, 88 Alfred Street, Milsons Point NSW 2061 at 11.00am.

This information is important. You should read the information relating to the meeting carefully and if necessary, seek your own independent advice.

### RESOLUTIONS 1 and 2

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#### Approval of issue of securities under the Standby Equity Facility Agreement with Cornell

##### *(a) Background*

On 15 May 2007, the Company entered into a Standby Equity Facility Agreement with Cornell Capital Partners, L.P. (**Cornell**), a US based investment fund, under which Cornell has committed to lend the Company up to a total aggregate of A\$10,000,000 (**SBEF**).

Pursuant to Resolution 1, the Company is seeking shareholder approval under Listing Rule 7.4 for the issue on 26 June 2007 of a total of 415,763 Shares to Cornell under the terms of the SBEF.

Pursuant to Resolution 2, the Company is seeking shareholder approval under Listing Rule 7.1 for the issue of any Shares to Cornell under the terms of the SBEF in the three month period from the date of the meeting.

##### *(b) Key terms of the Standby Equity Facility Agreement*

The key terms of the SBEF are as follows:

##### *(i) Advance of funds under the SBEF and pricing of issue of Shares*

In consideration for the advance of funds to the Company, Cornell agrees to subscribe for, and the Company agrees to issue, fully paid ordinary shares in the Company (**Shares**) up to the aggregate value of A\$10,000,000 over a period of 36 months. The amount and timing of any drawdown under the SBEF is at the discretion of the Company and is subject to the following terms:

- The maximum amount that may be advanced to the Company at any one time will be the lesser of:
  - (A) \$250,000;
  - (B) 175% of the average daily "Traded Value" of the Shares on ASX for the 20 trading days immediately prior to the date of the issue by the Company of a notice requesting funds (**Advance Notice**) ; or
  - (C) 175% of the average daily "Traded Value" of the Shares on the ASX for the 10 trading day period prior to the date of the issue by the Company of an Advance Notice.

The “Traded Value” of Shares is the amount obtained by multiplying the volume weighted average price of the Shares (**VWAP**) for that trading day by the number of Shares in the Company traded during the same trading day, as reported by Bloomberg LP.

- Each time the Company requests an advance of funds from Cornell, the Company will be required to nominate a trading day on which the pricing of the Shares to be issued to Cornell in consideration of the advance will commence. The pricing period will comprise the 10 consecutive trading days commencing on the day nominated by the Company (**Pricing Period**). The final price at which the Shares will be issued is 98% of the lowest daily VWAP (as adjusted to take into account any ex-dividend date that may fall within the Pricing Period) during the Pricing Period. If on any trading day on which the adjusted VWAP of Shares in the Company is less than 50% of the VWAP of the Shares on the date of execution of the SBEF, that price will not be included for the purposes of calculating the final issue price. Cornell may reduce the amount of the advance to the Company by up to 10% for each trading day that this occurs.
- Once the issue price of the Shares has been calculated, the number of Shares issued at that price that equals the relevant amount of the advance will be issued to Cornell. The number of Shares to be issued may be calculated in accordance with the following formula:

$$NS = \frac{\text{Drawdown Amount}}{98\% \times TP}$$

Where:

**NS** = is the number of Shares to be issued to Cornell under the SBEF.

**Drawdown Amount** = is the dollar amount which is to be drawn down under the SBEF.

**TP** = average share trading price over the 10 trading day period of the Pricing Period.

### Example

Assuming the Company decided to drawdown \$200,000 and had an average share trading price of \$0.60 over the 10 trading day period prior to 18 July 2007, the following number of Shares would need to be issued:

$$NS = \frac{200,000}{98\% \times 0.60}$$

$$NS = \frac{200,000}{0.588}$$

$$NS = 340,136 \text{ Shares}$$

- The Company must issue the Shares to Cornell and ensure that those Shares are admitted to quotation on the ASX before it can issue a further advance notice to Cornell.
- Any Shares issued by the Company in accordance with the SBEF must be issued subject to the constitution of the Company, credited as fully paid up, rank equally with all other Shares then on issue, be entitled to all future dividends and be immediately tradeable on the ASX following quotation.

- Cornell undertakes that it will not offer any Shares issued to it under the SBEF for sale other than on-market through the ASX and without disclosure, other than in compliance with the Corporations Act.
- The Company is not required to use the facility under the SBEF - its use is at the discretion of the Company.
- The Company must pay Cornell commission of 4% of the advance amount on each drawdown under the facility.

*(ii) Termination of the SBEF*

The SBEF may be terminated in a number of ways including:

- at the expiry of the 36 month term, being 15 May 2010;
- by mutual agreement of the parties;
- by the Company notifying Cornell that it wishes to terminate the agreement; and
- by Cornell if an event of default occurs.

An event of default includes:

- the failure of the Company to perform its obligations under the SBEF or its failure to perform the steps to be followed to complete an issue of Shares as described under the SBEF;
- the ASX suspending the Shares from quotation for more than 5 days, terminating the quotation of Shares or removing the Company from the ASX;
- any warranty being found to be materially inaccurate when made or where the Company fails to notify Cornell that a warranty is not accurate;
- any misrepresentation made by the Company under the SBEF;
- an event which in the reasonable opinion of Cornell materially affects the Company's ability to observe its liabilities under the SBEF or the Company's business assets, value, operations, prospects or financial or other condition in excess of \$100,000;
- if a liquidator or receiver is appointed over, or possession is taken by any secured party of, any assets of a member of the Company's corporate group.

Termination will release the parties from any further performance under the agreement, subject to certain accrued rights and liabilities.

*(iii) Commission and Fees*

The Company has agreed to pay Cornell a commission of 4% on any funds advanced under the SBEF. The commission will be automatically debited by Cornell from the funds advanced. The Company must also pay to Cornell:

- an Activation Fee of \$250,000 (plus GST);
- an Implementation Fee of \$50,000 (plus GST); and
- legal fees and expenses of \$30,000 (plus GST).

Under the terms of the SBEF, the Activation Fee and the Implementation Fee may be paid in either cash or by way of an issue of Shares to Cornell. The Company has paid the Implementation Fee in cash and the Activation Fee partly in cash and partly by way of an issue of Shares. In accordance with the part payment of the Activation Fee, on 26 June 2007 the Company issued Shares to the value of \$167,667 to Cornell.

**(c) ASX Listing Rules – Resolution 1**

Listing Rule 7.1 of the ASX Listing Rules restricts the number of equity securities that a listed company may issue in any 12 month period, without the approval of shareholders, to 15% of the number of ordinary securities on issue at the start of the period, subject to certain adjustments and permitted exceptions. In calculating the 15% limit, the entity is entitled to deduct any ordinary securities issued in the 12 month period that were issued with the approval of shareholders for the purposes of Listing Rule 7.1.

Under Listing Rule 7.4 of the ASX Listing Rules an issue of securities without approval under Listing Rule 7.1 will be treated as having been made with shareholder approval for the purposes of Listing Rule 7.1 if the original issue did not breach the 15% limit under Listing Rule 7.1 and shareholders subsequently approve the issue.

On 26 June 2007, the Company made the following issues of Shares:

- an issue of 167,006 Shares to Cornell under the terms of the SBEF at an issue price of \$0.59878 per Share in consideration for the drawdown of \$100,000 under the SBEF; and
- an issue of 248,757 Shares to Cornell under the terms of the SBEF at an issue price of \$0.67 per Share in consideration for the payment of fees in the amount of \$167,667 due under the SBEF.

Approval is being sought under Resolution 1 for the purposes of Listing Rule 7.4 in connection with the issue of the Shares to Cornell on 26 June 2007.

The following information is provided to shareholders for the purposes of the requirements of Listing Rule 7.5:

- the total number of Shares issued was 415,763;
- 167,006 of the Shares were issued at \$0.59878 per Share and 248,757 of the Shares were issued at \$0.67 per Share;
- the Shares were issued fully paid, rank equally with all existing Shares and were issued in accordance with the Constitution of the Company;
- the Shares were allotted to Cornell Capital Partners, L.P.; and
- \$100,000 of the funds raised from the issue of the Shares will be used for working capital purposes and to continue the Company's current growth strategy. \$167,667 of the funds raised from the issue were used to settle part of the payment of the Activation Fee under the SBEF.

The approval of shareholders to Resolution 1 will provide the Company with flexibility in considering any necessary further fundraising and will enable the Company to raise further funds (including under the SBEF, if necessary) at any time during the next 12 months by issuing up to the full 15% of its issued share capital without further reference to shareholders. Any Shares issued in accordance with Resolution 1 will not be counted towards the calculation of the 15% limit.

**(d) ASX Listing Rules – Resolution 2**

Listing Rule 7.1 of the ASX Listing Rules restricts the number of equity securities that a listed company may issue in any 12 month period, without the approval of shareholders, to 15% of the number of ordinary securities on issue at the start of the period, subject to certain adjustments and permitted exceptions. In calculating the 15% limit, the entity is entitled to deduct any ordinary securities issued in the 12 month period that were issued with the approval of shareholders for the purposes of Listing Rule 7.1.

Approval is being sought under Resolution 2 for the purposes of Listing Rule 7.1 in connection with any issue of Shares to Cornell under the terms of the SBEF in the three month period from the date of the General Meeting.

The following information is provided to shareholders for the purposes of the requirements of Listing Rule 7.3:

- the maximum number of Shares that the Company will issue under the approval in Resolution 2 is 4,000,000 Shares. The Company has adopted this maximum number to satisfy the requirements of Listing Rule 7.3.1. The actual number of Shares to be issued will depend on the level to which the Company needs to call on the funds available under the SBEF, as well as the price at which any Shares will be issued in accordance with the procedure set out in the SBEF. The Company currently estimates that it is unlikely that it will issue the maximum number of Shares in the 3 month period from the date of the meeting but it wishes to ensure it has maximum flexibility to do so should it be necessary.

By way of example, the following table sets out the maximum number of shares that would be issued to Cornell based on different aggregate average share prices over the Pricing Period and the total aggregate amount advanced under all drawdown notices issued during the period:

Aggregate Amount advanced	Aggregate average share price			
	\$0.50	\$0.60	\$0.70	\$0.80
\$500,000	1,020,409	850,341	728,863	637,756
\$750,000	1,530,613	1,275,511	1,093,295	956,633
\$1,000,000	2,040,816	1,700,681	1,457,726	1,275,510
\$2,000,000	4,081,633	3,401,361	2,915,452	2,551,020

- the Company will not issue any Shares for the purposes of the approval obtained under Resolution 2 after the date that is 3 months from the date of the meeting;
- the Shares will be issued at a price that is calculated in accordance with the terms of the SBEF, If that price is less than 80% of the average market price over the last 5 trading days before the day on which the issue is made, the Shares issued will not be excluded for the purposes of Listing Rule 7.1 and those Shares will be counted towards any calculation of the 15% limit for the purposes of Listing Rule 7.1;
- the Shares will be allotted to Cornell Capital Partners, L.P.;
- the Shares will be issued fully paid, will rank equally with all existing Shares and will be issued in accordance with the Constitution of the Company;
- the funds raised from the issue of any Shares will be used for working capital purposes and to continue the Company's current growth strategy; and
- the Shares will be allotted progressively.

The approval of shareholders to the issue of any Shares under the SBEF in the 3 month period from the date of the General Meeting will provide the Company with flexibility in considering any necessary further fundraising and will enable the Company to raise further funds (including under the SBEF, if necessary) at any time during the next 12 months by issuing up to the full 15% of its issued share capital without further reference to shareholders. Any Shares issued in accordance with Resolution 2 will not be counted towards the calculation of the 15% limit, except if any issue price of the Shares is less than 80% of the average market price (as described above).

**(e) Directors' recommendation on Resolutions 1 and 2**

The Directors recommend that shareholders vote in favour of Resolutions 1 and 2 as they intend to do with regard to their own shareholdings in the Company.

**(f) Voting exclusions**

In accordance with the ASX Listing Rules, Cornell and its associates will not be permitted to vote on Resolutions 1 and 2.

## **RESOLUTION 3**

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### **Approval of issue of securities under the Convertible Loan with Cornell**

**(a) Background**

The Company and Cornell agreed that part of the facility under the SBEF may be drawn down in the form of a convertible loan. On 15 May 2007, the Company entered into a Convertible Loan Agreement with Cornell (**Convertible Loan Agreement**), under which Cornell has committed to lend the Company up to a total aggregate of US\$3,500,000 by way of a convertible loan (**Convertible Loan**). On 29 June 2007 the Company satisfied all of the conditions precedent to the drawdown of the Convertible Loan and the proceeds have now been received by the Company.

Pursuant to Resolution 3, the Company is seeking shareholder approval under Listing Rule 7.1 for the issue of any Shares to Cornell under the repayment schedule and other terms of the Convertible Loan Agreement in the three month period from the date of the General Meeting.

**(b) Key terms of the Convertible Loan Agreement**

The key terms of the Convertible Loan Agreement are as follows:

**(i) Repayment**

The Company and Cornell have agreed to a repayment schedule under which the Company must repay the Convertible Loan to Cornell over the term of the loan. The repayments must be made no later than an agreed schedule of incremental tranches of between approximately A\$75,000 and A\$250,000 with a final payment of A\$425,000 due at the end of the term of the loan. A copy of the repayment schedule is attached in **Appendix 1**. On each repayment date, or such earlier period as the Company may decide, the Company has the option of paying the relevant loan repayment amount either in cash or by way of an issue of Shares to Cornell. However, under the terms of the

Syndicated Facility Agreement with Fortress Capital (see Resolutions 5 and 6 below), the Company has agreed that for the four year term of that facility, it will not repay any of the Convertible Loan in cash and will issue Shares to Cornell under the terms of the Convertible Loan Agreement.

Under the terms of the Convertible Loan if the Company repays the relevant loan repayment amount by way of an issue of Shares, the pricing period will comprise the 20 consecutive trading days commencing on the day that is 25 trading days prior to the scheduled delivery date for the Shares as set out in the repayment schedule (**Pricing Period**). The final price at which the Shares will be issued is 98% of the lowest daily VWAP (as adjusted to take into account any ex-dividend date that may fall within the Pricing Period) during the Pricing Period. If on any trading day on which the adjusted VWAP of Shares in the Company is less than 50% of the VWAP of the Shares on the date of execution of the SBEF (being 15 May 2007), that price will not be included for the purposes of calculating the final issue price. Cornell may reduce the amount of the advance to the Company by up to 5% for each trading day that this occurs.

Once the price for the Shares has been calculated, the number of Shares issued at that price that equals the relevant loan repayment amount will be issued to Cornell. The number of Shares to be issued may be calculated in accordance with the following formula:

$$NS = \frac{\text{Drawdown Amount}}{98\% \times TP}$$

Where:

**NS** = is the number of Shares to be issued to Cornell under the Convertible Loan.

**Drawdown Amount** = is the dollar amount which is to be repaid under the Convertible Loan.

**TP** = average share trading price over the 20 trading day period of the Pricing Period.

#### Example

Assuming that on the first repayment date the average share trading price over the 20 trading day pricing period was \$0.65, the following number of Shares will need to be issued:

$$NS = \frac{75,000}{98\% \times 0.65}$$

$$NS = \frac{75,000}{0.735}$$

$$NS = 102,041 \text{ Shares}$$

The Company is permitted to repay the outstanding amount of the Convertible Loan at any time in cash by providing written notice to Cornell of its intention to do so.

Two days after the final repayment is made, where the combined value of all the Shares issued under the Convertible Loan and any cash payments received by Cornell:

- is greater than US\$3,500,000 (plus any accrued but unpaid interest and any other expenses), Cornell must refund to the Company the difference in Australian dollars; and
- is less than US\$3,500,000 (plus any accrued but unpaid interest and other expenses), the Company must pay the difference to Cornell in US dollars.

The combined value of all the Shares issued under the Convertible Loan is determined by aggregating the total of (for each advance) the price of the Shares as set out in the SBEF, multiplied by the number of the Shares issued under the Convertible Loan, and then converting this amount to US dollars based upon the highest exchange rate during the period between the funding date and the final repayment date.

*(iii) Conversion*

At any time prior to the repayment of the whole of the outstanding monies due under the Convertible Loan, Cornell may give notice to the Company requiring that all or some of the outstanding monies be repaid either by way of payment of the cash amount (based on the exchange rate on the trading day immediately before the notice is given) or by way of the issue of Shares.

The price for Shares to be issued on the conversion will be the lower of:

- 130% of the average daily VWAP of the Shares during the 5 trading days immediately prior to the first date on which the Company activated the loan; and
- the lowest price per Share that the Company issues Shares to any third party while there are any outstanding moneys (other than an issue of Shares to employees under an employee share plan or any issue of Shares under the Fortress Convertible Note Deed Poll or the Fortress Options).

Subject to the Company issuing Shares to a third party at a lower price, the conversion price for the Shares has been set at \$0.82134.

*(iv) Events of Default*

The Convertible Loan Agreement contains a number of default events including (among other events):

- failure by the Company to pay moneys as due under the Convertible Loan Agreement;
- failure by the Company to perform its obligations under the Convertible Loan Agreement;
- an event occurs which in the reasonable opinion of Cornell materially affects the Company's ability to observe its liabilities under the Convertible Loan Agreement or the Company's business assets, value, operations, prospects or financial condition; and
- any event of default under the Convertible Loan Agreement will be an automatic event of default under the SBEF.

Upon an event of default, Cornell may demand repayment of all outstanding monies due under the Convertible Loan Agreement.

*(v) Undertakings*

The Company has agreed to give certain customary undertakings to Cornell in connection with the future conduct of the business of the Company including not to merge or amalgamate the Company without the prior consent of Cornell.

*(vi) Interest*

The Company is required to pay interest to Cornell from the date of draw down until the date of conversion or repayment of the Convertible Loan at the rate of 9% per annum (**Interest Rate**). Interest was paid for the first 180 days by way of deduction from the proceeds of the Convertible Loan and thereafter is payable on the last business day of each month.

*(vii) Security*

The Convertible Loan is not secured.

(viii) *Fortress Syndicated Facility Agreement*

Under the terms of the Syndicated Facility Agreement entered into between the Company and Fortress Credit on 22 June 2007, the Company has agreed that an event of a default under the Convertible Loan Agreement will constitute an event of default under the Syndicated Facility Agreement.

(c) **ASX Listing Rules**

Listing Rule 7.1 of the ASX Listing Rules restricts the number of equity securities that a listed company may issue in any 12 month period, without the approval of shareholders, to 15% of the number of ordinary securities on issue at the start of the period, subject to certain adjustments and permitted exceptions. In calculating the 15% limit, the entity is entitled to deduct any ordinary securities issued in the 12 month period that were issued with the approval of shareholders for the purposes of Listing Rule 7.1.

Approval is being sought under Resolution 3 for the purposes of Listing Rule 7.1 in connection with any issue of Shares to Cornell under the repayment schedule and other terms of the Convertible Loan in the three month period from the date of the meeting.

The following information is provided to shareholders for the purposes of the requirements of Listing Rule 7.3:

- the maximum number of Shares that the Company will issue under the approval in Resolution 3 is 4,000,000 Shares. The Company has adopted this maximum number to satisfy the requirements of Listing Rule 7.3.1. The actual number of Shares to be issued will depend on the number of repayments that the Company makes under the Convertible Loan in the 3 month period from the date of the meeting. Under the repayment schedule in the Convertible Loan Agreement this may be a maximum of 3 payments of \$75,000 each. However, the Company would like some flexibility to be able to issue further shares to Cornell in the event that it agrees with Cornell to accelerate repayment of part of the Convertible Loan in the 3 month period.

By way of example, the following table sets out the maximum number of shares that would be issued to Cornell based on different aggregate average share prices over the Pricing Period and the total aggregate amount repaid to Cornell during the period:

Aggregate amount repaid	Aggregate average share price			
	\$0.50	\$0.60	\$0.70	\$0.80
\$150,000	306,123	255,103	218,659	191,327
\$225,000	459,187	382,654	327,989	286,990
\$500,000	1,020,409	850,341	728,863	637,756
\$1,000,000	2,040,816	1,700,680	1,457,726	1,275,510

- the Company will not issue any Shares under the approval obtained under Resolution 3 after the date that is 3 months from the date of the General Meeting;
- the Shares will be issued at a price that is calculated in accordance with the terms of the Convertible Loan Agreement. If that price is less than 80% of the average market price over the last 5 trading days before the day on which the issue is made, the Shares issued will not be excluded for the purposes of Listing Rule 7.1 and those Shares will be counted towards any calculation of the 15% limit for the purposes of Listing Rule 7.1;

- the Shares will be allotted to Cornell Capital Partners, L.P.;
- the Shares will be issued fully paid, will rank equally with all existing Shares and will be issued in accordance with the Constitution of the Company;
- the funds raised from the issue of the Shares will be used for working capital purposes and to continue the Company's current growth strategy; and
- the Shares will be allotted progressively.

The approval of shareholders to the issue of any Shares under the Convertible Loan Agreement in the three month period from the date of the General Meeting will provide the Company with flexibility in considering any necessary further fundraising and will enable the Company to raise further funds (if necessary) at any time during the next 12 months by issuing up to the full 15% of its issued share capital without further reference to shareholders and without the securities issued under Resolution 3 in respect of the repayment of the Convertible Loan being counted towards the calculation of the 15% limit except if the issue price of the Shares is less than 80% of the average market price (as described above).

**(d) Directors' recommendation**

The Directors recommend that shareholders vote in favour of Resolution 3 as they intend to do with regard to their own shareholdings in the Company.

**(e) Voting exclusions**

In accordance with the ASX Listing Rules, Cornell and its associates will not be permitted to vote on Resolution 3.

## **RESOLUTION 4**

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### **Approval of issue of options to Cornell**

**(a) Background**

Under the terms of the Convertible Loan Agreement, on 9 July 2007 the Company issued to Cornell unquoted Series A, Series B and Series C options to acquire in aggregate 1,200,000 Shares (**Cornell Options**).

Pursuant to Resolution 4, the Company is seeking shareholder approval under Listing Rule 7.4 for the issue of the Cornell Options to Cornell under the terms of the Convertible Loan Agreement.

**(b) Key terms of the Options**

**(i) Issue and exercise of options**

The Series A, Series B and Series C options entitle Cornell to acquire up to 400,000 Shares for each series of options at an exercise price that is equal to 110%, 120% or 130% respectively of the average daily VWAP of the Shares during the 20 trading days immediately prior to 2 July 2007 (**Option Exercise Price**). The average daily VWAP of the Shares during this period was \$0.6538 and the exercise prices have been set as follows:

- Series A - \$0.71918 per Cornell Option
- Series B - \$0.78456 per Cornell Option
- Series C - \$0.84994 per Cornell Option.

If prior to the exercise of any Cornell Options the Company issues Shares to any third party at a price less than the Option Exercise Price, the Option Exercise Price will be reduced to the same price per Share at which the Company issued the Shares to the third party.

The Cornell Options:

- are non-transferable; and
- may be exercised at any time before the date that is 5 years from 2 July 2007.

Each series of Cornell Options may be exercised in whole or in part.

Upon notice being given to the Company exercising any of the Cornell Options, the Company is required to notify Cornell if it intends to satisfy its obligations under the Cornell Options by paying a cash amount to Cornell or issuing Shares at the Option Exercise Price.

The cash amount will be an amount determined by multiplying the number of shares that would have been issued to Cornell by the VWAP of the Shares on the trading day prior to the date of completion of exercise, less the Option Exercise Price.

However, under the terms of the Syndicated Facility Agreement with Fortress Credit (see Resolutions 5 and 6 below), the Company has agreed that for the four year term of that facility, it will not pay cash to Cornell upon the exercise of any of the Cornell Options and instead it will issue Shares to Cornell under the terms of the Convertible Loan Agreement.

*(ii) Issue of new rights to shareholders*

If the Company proposes to issue any new rights to existing shareholders, the Company must notify Cornell, and if Cornell does not decline the new rights, such new rights will attach to any shares not yet issued (**Unissued Option Shares**) in the same proportion and to the same extent as for Shares held by existing shareholders, as if the Unissued Option Shares had been issued to Cornell at that date. The Company must issue the new rights attaching to Unissued Option Shares upon completion of any exercise of Cornell Options that relate to those Unissued Option Shares.

*(iii) Bonus issues and capital re-organisation events*

If there is a bonus issue of Shares for no consideration, the Company must include the Unissued Option Shares in any calculation of the rights of existing shareholders to participate in the issue. The subscription amount to be paid by Cornell on exercise of any Cornell Options must be increased by an amount that was paid by existing shareholders at the time of issue of the new rights.

If there is a share re-organisation event such as a consolidation or share split, the number of Unissued Option Shares must be adjusted in an appropriate manner to ensure that Cornell receives an equivalent proportion of Shares following exercise of the Cornell Options, including, if necessary, adjusting the Option Exercise Price.

**(c) ASX Listing Rules**

Listing Rule 7.4 of the ASX Listing Rules provides that an issue of equity securities without approval under Listing Rule 7.1 will be treated as having been made with approval for the purposes of Listing Rule 7.1 if the original issue did not breach the 15% limit under Listing Rule 7.1 and shareholders subsequently approve the issue. The Cornell Options are equity securities for the purposes of Listing Rule 7.1.

Approval is being sought under Resolution 4 for the purposes of Listing Rule 7.4 in connection with the issue of the Cornell Options under the terms of the Convertible Loan Agreement.

The following information is provided to shareholders for the purposes of the requirements of Listing Rule 7.5:

- the number of Cornell Options allotted was 1,200,000;
- the Cornell Options were issued for no consideration, and accordingly no funds were raised from the issue;
- the Cornell Options are issued in accordance with the terms of the Convertible Loan Agreement set out above; and
- the Cornell Options were allotted to Cornell Capital Partners, L.P.

The approval of shareholders to the issue of the Cornell Options under the Convertible Loan Agreement will provide the Company with flexibility in considering any necessary further fundraising and will enable the Company to raise further funds (if necessary) at any time by issuing up to the full 15% of its issued share capital without further reference to shareholders. The Cornell Options issued (and any Shares issued upon exercise of the Cornell Options) under Resolution 4 will not be counted towards the calculation of the 15% limit.

**(d) Directors' recommendation**

The Directors recommend that shareholders vote in favour of Resolution 4 as they intend to do with regard to their own shareholdings in the Company.

**(e) Voting exclusions**

In accordance with the ASX Listing Rules, Cornell and its associates will not be permitted to vote on Resolution 4.

## **RESOLUTIONS 5 and 6**

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### **Approval of issue of Convertible Notes to Fortress Credit**

**(a) Background**

On 22 June 2007, the Company entered into a \$100,000,000 syndicated revolving credit facility agreement (**Syndicated Facility Agreement**) with Fortress Credit Corporation (Australia) II Pty Limited (**Fortress Credit**). As part of this financing, Fortress Credit agreed that it would subscribe for up to \$10,000,000 of convertible notes issued by the Company (**Convertible Notes**) upon the satisfaction of certain performance criteria by the Company. For this purpose, the Company has entered into a Convertible Note Deed Poll dated 22 June 2007 (**Convertible Note Deed Poll**), and the Company and Fortress Credit have entered into a Subscription Deed dated 22 June 2007 relating to the subscription of the Convertible Notes (**Subscription Deed**).

Pursuant to Resolution 5, the Company is seeking shareholder approval under Listing Rule 7.4 for the issue on 22 June 2007, 9 July 2007 and 23 July 2007 to Fortress Credit of an aggregate of 4,000,000 Convertible Notes under the terms of the Subscription Deed and the Convertible Note Deed Poll.

Pursuant to Resolution 6, the Company is seeking shareholder approval under Listing Rule 7.1 for the issue to Fortress Credit of up to 6,000,000 Convertible Notes under the terms of the Subscription Deed and the Convertible Note Deed Poll in the three month period from the date of the General Meeting.

**(b) Key terms of the Convertible Notes**

The key terms of the Convertible Note Deed Poll and Subscription Deed are as follows:

*(i) Subscription for, and issue of, Convertible Notes*

The Convertible Notes are to be issued in two separate tranches of \$1,000,000 each and four separate tranches of \$2,000,000 each. Each tranche will become available upon the satisfaction of certain performance criteria (**Tranche Availability Date**) as follows:

Tranche	Tranche Availability Date	Amount
A	Upon signing of the Convertible Note Deed Poll	\$1,000,000
B	The earlier of the date the Company first has 20,000 signed customers and 31 August 2007	\$1,000,000
C	The date the Company first has 40,000 signed customers	\$2,000,000
D	The date the Company first has 60,000 signed customers, subject to the share price being \$1.05 or greater	\$2,000,000
E	The date the Company first has 80,000 signed customers, subject to the share price being \$1.20 or greater	\$2,000,000
F	The date the Company first has 100,000 signed customers, subject to the share price being \$1.40 or greater	\$2,000,000

Each Tranche Availability Date must occur within 2 years after the date of the Convertible Note Deed Poll, unless agreed otherwise with the then holder of any Convertible Notes.

Upon the satisfaction of a Tranche Availability Date, the Company must provide notice to Fortress Credit if it intends to issue Convertible Notes, and the amount of the Convertible Notes to be issued. Any issue of Convertible Notes is at the discretion of the Company, although if the Company fails to issue the full amount of the Convertible Notes, it will be liable to pay an unused commitment fee in terms of paragraph (viii) below.

If the Company provides notice that it intends to issue Convertible Notes, Fortress Credit must subscribe for the proportion of the Convertible Notes to be issued in accordance with their respective proportions set out above. Each Convertible Note will be issued with a face value of \$1.00.

*(ii) Conversion and Redemption*

Each Convertible Note issued may be converted into Shares at any time at the discretion of the holder on or before the earlier of the occurrence of an event of default and the date that is 4 years from the date of the issue of the Tranche A Convertible Notes (**Maturity Date**). Upon receipt of a Conversion Notice, the Company must issue Shares to the value of the outstanding principal of the Convertible Notes (plus accrued but unpaid interest) divided by the Conversion Price to be calculated as follows:

- for Convertible Notes in Tranches A, B and C, the lower of the closing share price on the day prior to the Tranche Availability Date, and the 10 day historical VWAP of Shares up to the Tranche Availability Date, subject to a maximum of \$0.75; and

- for Convertible Notes in Tranches D, E and F, the lower of the closing share price on the day prior to the Tranche Availability Date, and the 10 day historical VWAP of Shares up to the Tranche Availability Date, subject to a minimum of \$0.75 and a maximum of \$1.00.

The Conversion Price for Tranches A and B has already been set at \$0.64 for each Tranche. The Conversion Price for Tranche C has already been set at \$0.59.

Any Shares issued on conversion will rank equally with all other Shares on issue at that time and will be entitled to participate in all dividends provided the conversion occurs before the record date for the dividend.

The Convertible Notes may only be redeemed on the earlier of an event of default or the Maturity Date. On an event of default a holder may give the Company a redemption notice requiring the redemption of all or any of its Convertible Notes for face value together with all accrued but unpaid interest. On the Maturity Date, the Convertible Notes must be redeemed by the Company by payment to each holder of the face value of the Convertible Notes, together with all accrued but unpaid interest.

There is no minimum price for the conversion of Convertible Notes in Tranches A, B or C. Accordingly, it is not possible for the Company to provide the precise number of Shares that will need to be issued upon a conversion of those Tranches. Convertible Notes in Tranches D, E and F are subject to a minimum conversion price of \$0.75 and accordingly the maximum number of Shares that can be issued on conversion of those Tranches is 8,000,000.

*(iii) Interest*

The Company is required to pay interest to a holder of Convertible Notes from the date of issue of the Convertible Notes until the date of conversion or redemption of the Convertible Note at the rate of 6% per annum (**Interest Rate**). Interest is payable on the last business day of each month. If the Company fails to pay any amount payable by it under a Convertible Note on the day it is due, interest shall accrue on the overdue amount at the Interest Rate plus 4% per annum.

*(iv) Security*

The Company acceded to a Security Trust Deed on 21 June 2007 with Fortress Credit that secures the repayment of the Convertible Notes.

*(v) Transfer*

The Convertible Notes are transferable in whole or in part other than to a person who holds a retail gas or electricity licence in any State or Territory of Australia or any related body corporate or related entity of such person. The transfer must be effected in a manner that does not require a disclosure document to be prepared under the Corporations Act.

*(vi) Subscription fee*

A fee of \$500,000 (**Subscription Fee**) was paid on the date of issue of Tranche A of the Convertible Notes, and has been offset against the proceeds of the issue of Tranche A. The Subscription fee is rebateable on a pro-rata basis in the event Fortress Credit does not subscribe for Convertible Notes to the total value of \$10,000,000. The rebate is not payable in certain circumstances including where a Tranche Availability Date arises and the Company does not offer Fortress Credit the Convertible Notes.

(viii) *Unused Commitment Fee*

In the event that the Company satisfies the criteria for a Tranche Availability Date, and does not offer to Fortress Credit the Convertible Notes (in whole or in part) a fee is payable to Fortress Credit (**Commitment Fee**). The Commitment Fee is calculated using the following formula:

$$(UC \times \frac{SP}{CP}) - UC$$

Where:

**UC** = for that Tranche, is the maximum number of Convertible Notes that may be issued on or after the Tranche Availability Date in respect of that Tranche, less the number of Convertible Notes of that Tranche that the Company proposes to issue to the subscribers (as specified in the applicable notice given by the Company to the subscribers, multiplied by \$1.

**SP** = for that Tranche, is the price of the Shares to be issued on Conversion of the Convertible Notes of that Tranche, calculated as the closing price of Shares quoted on the ASX (in dollars per Share) on the business day immediately prior to the relevant Tranche Availability Date.

**CP** = (a) in relation to Tranche A, Tranche B or Tranche C, is the lower of:

- (i) the closing price of Shares quoted on the ASX (in dollars per Share) on the business day immediately prior to the relevant Tranche Availability Date;
- (ii) the 10 day historical volume weighted average price of Shares quoted on the ASX (in dollars per Share) from the relevant Tranche Availability Date; and
- (iii) \$0.75 (for Tranche A or Tranche B) or \$1.00 (for Tranche C); and

(b) in relation to each of the other Tranches, the lower of:

- (iv) the closing price of Shares quoted on the ASX (in dollars per Share) on the business day immediately prior to the relevant Tranche Availability Date; and
- (v) the 10 day historical volume weighted average price of Shares quoted on the ASX (in dollars per Share) from the relevant Tranche Availability Date,

with a minimum of \$0.75 and a maximum of \$1.00.

If the Commitment Fee would otherwise be a negative amount then it is taken to be nil.

**(c) ASX Listing Rules – Resolution 5**

Listing Rule 7.1 of the ASX Listing Rules restricts the number of equity securities that a listed company may issue in any 12 month period, without the approval of shareholders, to 15% of the number of ordinary securities on issue at the start of the period, subject to certain adjustments and permitted exceptions. In calculating the 15% limit, the entity is entitled to deduct any ordinary securities issued in the 12 month period that were issued with the approval of shareholders for the purposes of Listing Rule 7.1. The Convertible Notes are equity securities for the purposes of Listing Rule 7.1.

Under Listing Rule 7.4 of the ASX Listing Rules an issue of securities without approval under Listing Rule 7.1 will be treated as having been made with approval for the purposes of Listing Rule 7.1 if the original issue did not breach the 15% limit under Listing Rule 7.1 and shareholders subsequently approve the issue.

On 22 June 2007, the Company issued the Tranche A Convertible Notes to the value of \$1,000,000 to Fortress Credit in accordance with the terms of the Subscription Deed and the Convertible Note Deed Poll.

On 9 July 2007, the Company issued the Tranche B Convertible Notes to the value of \$1,000,000 to Fortress Credit in accordance with the terms of the Subscription Deed and the Convertible Note Deed Poll.

On 23 July 2007, the Company issued the Tranche C Convertible Notes to the value of \$2,000,000 to Fortress Credit in accordance with the terms of the Subscription Deed and the Convertible Note Deed Poll.

Approval is being sought under Resolution 5 for the purposes of Listing Rule 7.4 in connection with the previous issue of the Tranche A, Tranche B and Tranche C Convertible Notes.

The following information is provided to shareholders for the purposes of the requirements of Listing Rule 7.5:

- the number of Convertible Notes allotted was 4,000,000;
- each of the Convertible Notes was issued with a face value of \$1 and was issued for a total aggregate consideration of \$4,000,000;
- the Convertible Notes were issued in accordance with the terms of the Subscription Deed and Convertible Note Deed Poll set out above;
- the Convertible Notes were issued to Fortress Credit Corporation (Australia) II Pty Limited; and
- the funds raised from the issue of the Shares will be used for working capital purposes and to continue the Company's current growth strategy.

The approval of shareholders to the issue of the Convertible Notes will provide the Company with flexibility in considering any necessary further fundraising and will enable the Company to raise further funds (if necessary) at any time by issuing up to the full 15% of its issued share capital without further reference to shareholders. Any securities issued under Resolution 5 will not be counted towards the calculation of the 15% limit.

**(d) ASX Listing Rules – Resolution 6**

Listing Rule 7.1 of the ASX Listing Rules restricts the number of equity securities that a listed company may issue in any 12 month period, without the approval of shareholders, to 15% of the number of ordinary securities on issue at the start of the period, subject to certain adjustments and permitted exceptions. In calculating the 15% limit, the entity is entitled to deduct any ordinary securities issued in the 12 month period that were issued with the approval of shareholders for the purposes of Listing Rule 7.1. The Convertible Notes are equity securities for the purposes of Listing Rule 7.1.

Approval is being sought under Resolution 6 for the purposes of Listing Rule 7.1 in connection with any future issue of Convertible Notes under the terms of the Subscription Deed and the Convertible Note Deed Poll in the three month period from the date of the General Meeting.

The following information is provided to shareholders for the purposes of the requirements of Listing Rule 7.3:

- the maximum number of Convertible Notes to be issued is 6,000,000;
- the Company will not issue any Convertible Notes for the purposes of the approval obtained under Resolution 6 after the date that is three months from the date of the General Meeting;
- the Convertible Notes will be issued with a face value of \$1.00 per Convertible Note;
- the Convertible Notes will be allotted to Fortress Credit Corporation (Australia) II Pty Limited;
- the Convertible Notes will be issued on the terms of the Convertible Note Deed Poll set out above;
- the funds raised from the issue of any Convertible Notes will be used for working capital purposes and to continue the Company's current growth strategy; and
- the Shares will be allotted progressively.

Given the restriction on the period of time in which approval may be sought under the ASX Listing Rules for the issue of the Convertible Notes, and the performance criteria that has been imposed with regard to the availability of the Convertible Notes, the Company considers it is unlikely that the full 6,000,000 of Convertible Notes will be issued under the approval being sought under Resolution 6. However, the approval of shareholders to the issue of the Convertible Notes will provide the Company with flexibility in considering any necessary further fundraising and will enable the Company to raise further funds (if necessary) at any time by issuing up to the full 15% of its issued share capital without further reference to shareholders. Any securities issued under Resolution 6 will not be counted towards the calculation of the 15% limit.

**(e) Directors' recommendation**

The Directors recommend that shareholders vote in favour of Resolutions 5 and 6 as they intend to do with regard to their own shareholdings in the Company.

**(f) Voting exclusions**

In accordance with the ASX Listing Rules, Fortress Credit and its associates will not be permitted to vote on Resolutions 5 and 6.

## RESOLUTION 7

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### Approval of issue of securities under Option Deed with Fortress Credit

#### (a) *Background*

As part of the financing under the Syndicated Facility Agreement, the Company has agreed to grant Fortress Credit 3,500,000 options to acquire Shares (**Fortress Options**) on the terms of an Option Deed between the Company and Fortress Credit dated 22 June 2007 (**Option Deed**).

Pursuant to Resolution 7, the Company is seeking shareholder approval under Listing Rule 7.1 for the issue of the Fortress Options to Cornell under the terms of the Option Deed.

#### (b) *Key terms of the Option Deed*

The key terms of the Option Deed are as follows:

##### (i) *Grant of Options*

The grant of the Fortress Options to Fortress Credit is conditional upon shareholders approving Resolution 7 to be proposed at the General Meeting.

The Fortress Options will be granted for nil consideration.

##### (ii) *Exercise of Options*

The Fortress Options may be exercised at any time before 22 June 2012. The Fortress Options will lapse if they have not been exercised by that date.

Each Fortress Option entitles the holder upon exercise to subscribe for one Share at an exercise price of \$0.64, being the lower of:

- the average price of the Shares on the ASX for the 10 trading day period prior to the date of financial close under the Syndicated Facility Agreement between the Company and Fortress Credit; or
- \$0.75.

Upon exercise, Fortress Credit may elect not to pay the exercise price, in which case the number of Shares to be issued to Fortress Credit on exercise of the Fortress Options will be reduced in accordance with the following formula:

$$AS = OS - (AEP/SP)$$

Where:

**AS** = the adjusted number of Shares to be issued to Fortress Credit.

**OS** = the number of Shares which Fortress Credit would have received on exercise.

**AEP** = OS multiplied by the exercise price of the Shares.

**SP** = the 10 day historical VWAP of the Shares quoted on the ASX on the date of the exercise notice.

Upon issue the Shares must rank equally with all Shares then on issue and be entitled to participate in dividends provided that the exercise of the Fortress Option occurs before the record date for determining the entitlement to participate in the dividend.

*(iii) Rights issues, bonus issues and capital re-organisations*

Fortress Credit is not entitled to participate in a bonus issue of Shares or new issue of Shares made by the Company before any exercise of the Fortress Options and the issue of the corresponding Shares.

In accordance with Listing Rule 6.22 of the ASX Listing Rules, if there is a pro-rata issue of Shares to shareholders (excluding a bonus issue), the exercise price of a Fortress Option may be reduced according to the formula set out in Listing Rule 6.22.2.

In accordance with Listing Rule 6.22.3 of the ASX Listing Rules, if there is a bonus issue of Shares to shareholders, the number of Shares over which the Fortress Option is exercisable may be increased by the number of Shares which the optionholder would have received if the Fortress Option had been exercised before the record date for that bonus issue of Shares.

*(iv) Syndicated Facility Agreement*

In the event that the Fortress Options are not issued to Fortress Credit by 31 August 2007 this will constitute an event of default under the Syndicated Facility Agreement.

**(c) ASX Listing Rules**

Listing Rule 7.1 of the ASX Listing Rules restricts the number of equity securities that a listed company may issue in any 12 month period, without the approval of shareholders, to 15% of the number of ordinary securities on issue at the start of the period, subject to certain adjustments and permitted exceptions. In calculating the 15% limit, the entity is entitled to deduct any ordinary securities issued in the 12 month period that were issued with the approval of shareholders for the purposes of Listing Rule 7.1. The Fortress Options are equity securities for the purposes of Listing Rule 7.1.

Approval is being sought under Resolution 7 for the purposes of Listing Rule 7.1 in connection with the issue of the Fortress Options to Fortress Credit under the terms of the Option Deed.

The following information is provided to shareholders for the purposes of the requirements of Listing Rule 7.3:

- the maximum number of Fortress Options to be issued is 3,500,000;
- the Company expects to issue the Fortress Options on or before 31 August 2007 but, in any event, it will not issue any Fortress Options under the approval obtained under Resolution 7 after the date that is 3 months from the date of the General Meeting;
- the Fortress Options will be issued for no consideration, and accordingly, no funds will be raised from the issue of the Fortress Options;
- the Fortress Options will be allotted to Fortress Credit Corporation (Australia) II Pty Limited;
- the Fortress Options will be issued on the terms of the Option Deed set out above; and
- the Shares will be allotted progressively.

The approval of shareholders to the issue of the Fortress Options on the terms of the Option Deed will provide the Company with flexibility in considering any necessary further fundraising and will enable the Company to raise further funds (if necessary) at any time by issuing up to the full 15% of its issued share capital without further reference to shareholders. Any Fortress Options issued (and any Shares issued upon exercise of the Fortress Options) under Resolution 7 will not be counted towards the calculation of the 15% limit.

**(d) Directors' recommendation**

The Directors recommend that shareholders vote in favour of Resolution 7 as they intend to do with regard to their own shareholdings in the Company.

**(e) Voting exclusions**

In accordance with the ASX Listing Rules, Fortress Credit and its associates will not be permitted to vote on Resolution 7.

**RESOLUTIONS 8 and 9**

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**Approval of issue of options under Employee Share Option Plan**

**(a) Background**

The Company adopted an Employee Share Option Plan (**ESOP**) in February 2007 as part of its employee remuneration and incentivisation program.

In March 2007, the Board resolved to issue a series of options to senior executives of the Company (**Executive Options**) under the terms of the ESOP.

Pursuant to Resolution 8, the Company is seeking shareholder approval under Listing Rule 7.4 for the previous issue of the Executive Options under the terms of the ESOP.

Pursuant to Resolution 9, the Company is seeking shareholder approval under exception 9 to Listing Rule 7.2 for the issue of further options under the ESOP for a period of 3 years from the date of the meeting.

**(b) Issue of Executive Options**

The Executive Options issued in March 2007, and the performance conditions in connection with each tranche of Executive Options, are as follows:

Executive	Options issued	Exercise Price	Exercise Date	Performance Conditions
Andrew Butler (General Manager – Marketing and Public Relations)	142,857	\$0.49	30/9/08	Receipt of licences <sup>1</sup>
	142,857	\$0.70	30/9/09	First 25,000 customers <sup>2</sup>
	142,857	\$0.84	30/9/10	Second 25,000 customers <sup>2</sup>
	142,857	\$0.98	30/9/11	Next 50,000 customers <sup>2</sup>
	142,857	\$1.12	30/9/11	100,000 customers within 21 months of product release <sup>2</sup>
Tom Gilpin (General Manager – Commercial)	57,143	\$0.49	30/9/08	Receipt of licences <sup>1</sup>
	57,143	\$0.70	30/9/09	First 25,000 customers <sup>2</sup>
	57,143	\$0.84	30/9/10	Second 25,000 customers <sup>2</sup>
	57,143	\$0.98	30/9/11	Next 50,000 customers <sup>2</sup>
	57,143	\$1.12	30/9/11	100,000 customers within 21 months of product release <sup>2</sup>
Anthony Wiseman (General Manager – Wholesale)	57,143	\$0.84	30/9/08	Signing energy trading agreements <sup>7</sup>
	57,143	\$0.98	30/9/09	First 25,000 customers <sup>2</sup>
	57,143	\$1.12	30/9/10	Second 25,000 customers <sup>2</sup>
	57,143	\$1.26	30/9/11	Next 50,000 customers <sup>2</sup>
	57,143	\$1.26	30/9/11	Energy price at budget <sup>8</sup>
Warren Kember (Chief Financial Officer)	57,143	\$0.49	30/9/08	Receipt of licences <sup>1</sup>
	57,143	\$0.70	30/9/09	First 25,000 customers <sup>2</sup>
	57,143	\$0.84	30/9/10	Second 25,000 customers <sup>2</sup>
	57,143	\$0.98	30/9/11	Next 50,000 customers <sup>2</sup>
	57,143	\$1.12	30/9/11	100,000 customers within 21 months of product release <sup>2</sup>

Notes

1. Receipt of licences – means the confirmation received from governing regulatory bodies of energy markets for gas and electricity in each of Victoria, New South Wales and Queensland.
2. Customers defined as those that have been through one billing cycle.
3. Options vest 6 months after performance conditions satisfied
4. Performance conditions must be satisfied within three years from 1 December 2006.
5. Number of options to be adjusted pro-rata if the number of ordinary shares on issue exceeds 100,285,714 on a fully diluted basis.
6. Options do not vest if employment terminated during probation period. If employment is terminated for non-performance, negligence or misconduct options do not vest. If employment terminated for other reasons, then options will vest on a pro-rata basis.
7. Appropriate energy trading agreements and purchases for both gas and electricity being in place for all jurisdictions in which the Company or its related bodies corporate trade.
8. Energy purchase price on a settled basis to be within an agreed budget pricing for the first four full years of Company acquiring customers.
9. Entitlements to options shall be calculated and issued annually pro rata.

The issue of each tranche of Executive Options occurred on 12 March 2007. Each of the Executive Options will vest in the executive six months after satisfaction of the relevant performance condition. Resolution 8 is seeking shareholder approval for the issue of the Executive Options to the senior executives for the purposes of Listing Rule 7.1.

The Executive Options were issued for no consideration and will be exercisable in accordance with the terms of the ESOP outlined below.

**(c) Key terms of the ESOP**

The key terms of the ESOP are as follows:

*(i) Operation*

The ESOP is administered by the board of the Company. Each year, the board determines:

- the total number of options to be issued under the ESOP for that year (**ESOP Options**);
- the executives, senior managers and other employees of the group eligible to receive ESOP Options (**Eligible Executives**) in that year and their relevant entitlement;
- the offer date of the ESOP Options and the closing date for acceptance; and
- the conditions of the offer, such as the performance conditions, exercise price, period to price and any other terms the board may determine.

A letter of offer is then given to each Eligible Executive, together with a booklet which provides details of the ESOP rules and taxation implications.

If an offer of options is made under the ESOP that is subject to the satisfaction of performance conditions then the Eligible Executive will only obtain an entitlement to those ESOP options granted upon satisfaction of the performance conditions on or before the date determined by the board for satisfaction of the conditions.

The ESOP may be suspended or the participation of an Eligible Executive in the ESOP, may be suspended at any time by a resolution of the board.

*(ii) Eligibility*

The Board has discretion to determine an Eligible Executive. Factors which the Board may take into account when considering an employee include:

- period of employment, including years of service;
- past contribution made to the group;
- likely future contribution to the group; and
- any other matters which the board so determines.

Directors of a group company are not entitled to participate in the ESOP.

*(iii) Lapse of ESOP Options*

Unless otherwise determined by the board, an ESOP Options will immediately lapse on the first to occur of:

- the last day of the relevant exercise period;
- if the optionholder resigns or retires, 30 days after the date of cessation of employment (or such longer period as the board determines);
- if the optionholder is retrenched, or dies, becomes permanently ill or physically or mentally incapacitated, 6 months after the date of cessation of employment (or such longer period as the board determines);
- if the optionholder ceases to be employed for any other reason, 60 days after the date of cessation of employment (or such longer period as the board determines);
- a determination of the board that the optionholder has been dismissed without notice or acted fraudulently, dishonestly or in breach of their obligations to the group, and the ESOP Option is to be forfeited for that reason.

If an optionholder ceases to be employed before the satisfaction of any performance condition attaching to an ESOP Option, any entitlement to that ESOP Option lapses.

*(iv) Maximum number of options available under the ESOP*

The ESOP limits the total number of ESOP Options the Company may issue, together with entitlements under any other employee incentive scheme to a total of 5% of Shares on issue at the time of the proposed issue.

*(v) Reconstruction of capital*

In the event of a reconstruction of capital, the ESOP provides that the number of ESOP Options or the exercise price or exercise period will be reconstructed in a manner determined by the board in a manner not inconsistent with the ASX Listing Rules or any applicable law, including and ASIC class orders.

*(vi) Change of Control*

If a change in control of the Company occurs, the Board may consider that performance conditions and other restrictions have been satisfied and facilitate exercise of the ESOP Options.

*(vii) Restriction on disposal*

Shares obtained as a result of exercising ESOP Options granted under the ESOP are subject to restrictions on sale as determined by the Board. The restrictions applied are in accordance with the Board's policy on share trading by the Company's employees generally.

**(d) ASX Listing Rules – Resolution 8**

Listing Rule 7.1 of the ASX Listing Rules restricts the number of securities that a listed company may issue in any 12 month period, without the approval of shareholders, to 15% of the number of shares on issue at the start of the period, subject to certain adjustments and permitted exceptions. In calculating the 15% limit, the Company is entitled to deduct any issue of securities that has been made with the approval of shareholders for the purposes of Listing Rule 7.1.

Under Listing Rule 7.4 of the ASX Listing Rules an issue of securities without approval under Listing Rule 7.1 will be treated as having been made with approval for the purposes of Listing Rule 7.1 if the original issue did not breach the 15% limit under Listing Rule 7.1 and shareholders subsequently approve the issue.

Approval is being sought under Resolution 8 to be proposed at the General Meeting for the purposes of Listing Rule 7.4 in connection with the previous issue of an aggregate total of 1,571,429 Executive Options to Andrew Butler, Tom Gilpin, Anthony Wiseman and Warren Kember under the terms of the ESOP.

The following information is provided to shareholders for the purposes of the requirements of Listing Rule 7.4:

- the number of Executive Options allotted was 1,571,430;
- each of the Executive Options was issued for no consideration, and accordingly no funds were raised from the issue;
- the Executive Options were issued in accordance with the terms of the ESOP set out above; and
- the Executive Options were issued to Andrew Butler (714,285), Tom Gilpin (285,715), Anthony Wiseman (285,715) and Warren Kember (285,715).

Subject to shareholder approval, any securities issued under Resolution 8 will not be counted towards the calculation of the 15% limit under Listing Rule 7.1.

**(e) ASX Listing Rules – Resolution 9**

Listing Rule 7.1 of the ASX Listing Rules restricts the number of equity securities that a listed company may issue in any 12 month period, without the approval of shareholders, to 15% of the number of ordinary securities on issue at the start of the period, subject to certain adjustments and permitted exceptions. In calculating the 15% limit, the Company is entitled to deduct any ordinary securities issued in the 12 month period that were issued with the approval of shareholders for the purposes of Listing Rule 7.1.

Listing Rule 7.2 provides several circumstances where particular issues of securities are excluded from the calculation of the 15% limit under Listing Rule 7.1, including issues under an employee incentive scheme if within three years before the date of issue, shareholders approved the issue of securities under the scheme as an exception to Listing Rule 7.1.

The ESOP is an employee incentive scheme for the purposes of Listing Rule 7.2.

Approval is being sought under Resolution 9 for the purposes of exception 9 to Listing Rule 7.2 in connection with the issue of options under the ESOP over the three year period from the date of the General Meeting, subject to the limitations on the numbers of options that may be granted under the terms of the ESOP.

Under the ESOP, the Company may not grant options under the ESOP if, following the grant, the aggregate of:

- the total number of Shares issued during the preceding five years in respect of the exercise of options granted under the ESOP or any other group employee incentive scheme; and
- the total number of unissued Shares over which options have been granted under a group employee incentive scheme,

would exceed 5% of the number of Shares on issue at the time of the proposed issue.

No approval for the issue of options under the ESOP has been obtained previously. The total number of options issued under the ESOP to date is 1,571,430.

The approval of shareholders to the issue of the options on the terms of the ESOP will provide the Company with flexibility in considering any necessary further fundraising and will enable the Company to raise further funds (if necessary) at any time by issuing up to the full 15% of its issued share capital without further reference to shareholders. Any options issued (and any Shares issued upon exercise of the options) under Resolution 9 will not be counted towards the calculation of the 15% limit.

**(f) Directors' recommendation**

The Directors recommend that shareholders vote in favour of Resolutions 8 and 9 as they intend to do with regard to their own shareholdings in the Company.

**(g) Voting exclusions**

In accordance with the ASX Listing Rules, Andrew Butler, Tom Gilpin, Anthony Wiseman and Warren Kember, and each of their respective associates, will not be permitted to vote on Resolution 8.

In accordance with the ASX Listing Rules no director who is eligible to participate in the ESOP or their associates will be permitted to vote on Resolution 9. However, shareholders should note that no directors of the Company are eligible to participate in the ESOP under its terms.

## **RESOLUTIONS 10 and 11**

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### **Issue of options to Mr Bellman and Mr McGregor**

**(a) Background**

As part of the appointment of Mr Wayne Bellman as a director of the Company, subject to shareholder approval, the Company agreed to grant Mr Bellman 200,000 options (**Bellman Options**). Each Bellman Option entitles Mr Bellman to acquire a Share at \$0.70 each.

In part consideration for the retention of the services provided by Mr Ian McGregor, a director of the Company, subject to shareholder approval, the Company has agreed to grant Mr McGregor 200,000 options (**McGregor Options**). Each McGregor Option entitles Mr McGregor to acquire a Share at \$0.70 each.

Mr Bellman and Mr McGregor are related parties of the Company under the Corporations Act and the ASX Listing Rules by virtue of their directorships of the Company. For the purposes of this section of the Explanatory Memorandum, Mr Bellman and Mr McGregor are collectively referred to as the **Related Parties** and the Bellman Options and the McGregor Options are collectively referred to as the **Director Options**.

Approval is being sought under Resolutions 10 and 11 to be proposed at the General Meeting to grant the Director Options to the Related Parties to secure each of the Related Parties' ongoing commitment to the growth of the Company.

The above approvals are sought for the purposes of:

- Chapter 2E of the Corporations Act 2001, which governs the giving of financial benefits to directors and other "related parties" of a company; and
- ASX Listing Rule 10.11 which provides that, subject to certain exceptions, a company listed on ASX cannot issue or grant securities to a director without shareholder approval.

The Board considers that in view of the financial, legal and other responsibilities assumed by directors of public companies, the payment of monetary fees alone is not an adequate reward and does not provide an adequate incentive to enable the Company to attract and keep board members and executive directors of the requisite level of experience and qualifications. The Board considers that equity participation by way of the grant of options to members of the Board is appropriate for these purposes. In addition, the Board considers that the issuing of options will contribute to the preservation of the Company's cash reserves.

In determining the number of Director Options to be granted, consideration was given to the relevant experience and role of the Related Parties, their overall remuneration terms, the current market price of Shares and the terms of options packages granted to directors of other companies within the energy sector.

**(b) Chapter 2E of the Corporations Act**

Chapter 2E of the Corporations Act regulates the provision of financial benefits to related parties by a public company. Section 208 of the Corporations Act prohibits a public company giving a financial benefit to a related party unless one of a number of exceptions applies.

A "financial benefit" is defined in the Corporations Act in broad terms and includes a public company issuing securities.

Under the Corporations Act, a director of a company is a related party of that company. Mr Bellman and Mr McGregor are both directors of the Company. Accordingly, the proposed grant of the Director Options to the Related Parties involves the provision of a financial benefit to a related party of the Company.

Where no exception is applicable (as is the case in these circumstances), section 208 of the Corporations Act provides that for a public company to give a financial benefit to a related party of that company, the public company must:

- (i) obtain the approval of members in the way set out in sections 217 to 227 of the Corporations Act; and
- (ii) give the benefit within 15 months after the approval is obtained.

For the purposes of sections 217 to 227 of the Corporations Act, the following information is provided to allow Shareholders to assess the proposed grant of the Director Options:

- (i) the parties to whom the Director Options will be granted are Mr Wayne Bellman and Mr Ian McGregor;
- (ii) the maximum number of Director Options (being the nature of the financial benefit being given) to be granted is 200,000 Bellman Options and 200,000 McGregor Options;
- (iii) the Director Options will be granted for no consideration, accordingly no funds will be raised from the grant of the Director Options;
- (iv) the full terms and conditions of the Bellman Options are set out in Appendix 2 and the full terms and conditions of the McGregor Options are set out in Appendix 3;
- (v) the value of the Bellman Options and McGregor Options and the pricing methodology is set out in paragraph (d) below;
- (vi) as at the date of this Notice, the estimated annual remuneration for 2007 (inclusive of superannuation where applicable) payable to the Related Parties is set out below:

Director	Remuneration
Mr Wayne Bellman	\$20,449
Mr Ian McGregor	\$33,333

In addition, Mr Wayne Bellman has been paid consulting fees of \$22,900 from 1 July 2006 to the date of this Notice of Meeting and Explanatory Memorandum;

- (vii) during the previous financial year, the remuneration (inclusive of superannuation where applicable) paid to the Related Parties was as follows:

Director	Remuneration
Mr Wayne Bellman	Nil
Mr Ian McGregor	\$53,332

- (viii) as at the date of this Notice of Meeting and Explanatory Memorandum, the Related Parties have the following interests in the securities of the Company;

Director	Shares	Options
Mr Wayne Bellman	Nil	Nil
Mr Ian McGregor	329,659	17,858

- (ix) other than as set out above, the Related Parties receive no other emoluments from the Company;
- (x) if the Director Options granted to the Related Parties are exercised, a total of 400,000 Shares will be allotted and issued. Due to the unknown number of Shares that may be issued by the Company pursuant to the approvals being sought at the General Meeting under Resolutions 1 to 9, it is not possible for the Company to provide any information with respect to the dilutionary impact of the issue of the issue of the Director Options. However, based on the issued share capital of the Company as at the date of this Notice of Meeting and Explanatory Memorandum, the dilutionary impact of the issue of the Director Options would be:

Director	Number of Options to be issued	Issued Shares upon exercise of Options	Dilutionary effect if all options issued to the related party are exercised
Mr Wayne Bellman	200,000	200,000	0.23%
Mr Ian McGregor	200,000	200,000	0.23%

The market price for Shares during the term of the Director Options would additionally determine whether or not they are exercised. If, at any time any of the Director Options are exercised and the Shares are trading on ASX at a price that is higher than the exercise price of the Director Options, there may be a perceived cost to the Company. Information on the trading history of the Shares on ASX in the past 12 months is set out in paragraph (e) below; and

- (xi) the Director Options will be granted not later than 1 month after the date of the General Meeting (or such later date as permitted by any ASX waiver or modification of the Listing Rules) and it is anticipated that they will be granted on one date.

**(c) ASX Listing Rules**

ASX Listing Rule 10.11 requires a listed company to obtain shareholder approval by ordinary resolution prior to the issue of securities (including an option) to a related party. As noted above, Mr Bellman and Mr McGregor are considered related parties of the Company by virtue of the fact that they are directors of the Company.

Approval pursuant to Listing Rule 7.1 is not required in order to grant the Director Options to the Related Parties as approval is being obtained under ASX Listing Rule 10.11. If approval is obtained, the grant of the Director Options will not be included in the 15% calculation for the purposes of ASX Listing Rule 7.1.

ASX Listing Rule 10.13 sets out a number of matters which must be included in a notice of meeting proposing an approval under ASX Listing Rule 10.11. The following information is provided to shareholders for the purposes of Listing Rule 10.13:

- (i) the maximum number of Director Options to be issued is 400,000 as follows:
- (A) 200,000 Bellman Options to Mr Bellman; and
  - (B) 200,000 McGregor Options to Mr McGregor;
- (ii) the Director Options will be issued no later than one (1) month from the date of approval of the Resolutions (or such later date as approved by ASX) and it is anticipated that the Director Options will be issued on one date;
- (iii) the full terms and conditions of the Bellman Options are set out in Appendix 2 and the full terms and conditions of the McGregor Options are set out in Appendix 3;
- (iv) the Shares issued upon exercise of the Director Options will rank equally in all respects with the Company's existing issued Shares; and
- (v) the Director Options will be granted for no consideration as consideration for performance of work, both previously and into the future by the Related Parties for the Company and to secure the ongoing commitment of the Related Parties to the continued growth of the Company.

**(d) Value of Options**

For the purposes of this Notice of Meeting and Explanatory Memorandum the Board appointed Grant Thornton to prepare a valuation of the Bellman Options and the McGregor Options.

Based on the assumptions set out below, Grant Thornton has valued the Bellman Options in total at \$57,000 (\$0.285 per Bellman Option) and the McGregor Options in total at \$57,000<sup>1</sup> (\$0.285 per McGregor Option).

**(e) Historical trading price of Shares**

In the last 12 months before the date of this Notice of Meeting and Explanatory Memorandum the highest, lowest and latest trading price of Shares on ASX were:

Highest	\$1.085 on a post consolidation basis on 11 September 2006
Lowest	\$0.343 on a post consolidation basis on 31 July 2006
Last	\$0.60 on a post consolidation basis on 20 July 2007

**(f) Directors' Recommendation**

Based on the reasons set out above, the Directors (other than Mr McGregor) recommend that shareholders vote in favour of Resolution 10 as they intend to do with regard to their own shareholdings in the Company. As Mr McGregor has an interest in the outcome of the proposed resolution, Mr McGregor has declined to provide a recommendation on Resolution 10.

Based on the reasons set out above, the Directors (other than Mr Bellman) recommend that shareholders vote in favour of Resolution 11 as they intend to do with regard to their own shareholdings in the Company. As Mr Bellman has an interest in the outcome of the proposed resolution, Mr Bellman has declined to provide a recommendation on Resolution 11.

**(g) Voting exclusions**

In accordance with the ASX Listing Rules, Mr McGregor and his associates will not be permitted to vote on Resolution 10 and Mr Bellman and his associates will not be permitted to vote on Resolution 11.

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1. The valuation is based on the following assumptions:

- Exercise price is \$0.70;
- Spot price is \$0.69;
- Valuation Date is 30 May 2007;
- Maturity Date for the Director Options is 30 September 2010;
- Volatility is medium (i.e. 50%);
- Risk free rate is 6.02%; and
- Dividend yield is 0%.

## ADDITIONAL INFORMATION

### Directors' interests

As at the date of this Notice of Meeting and Explanatory Memorandum, the directors of the Company had the following direct and indirect interests in the securities of the Company:

Director	Shares	Options
Ms Anne Harley (Chairman)	Nil	214,286
Mr Richard Poole	1,053,257	5,357,143
Mr Ian McGregor	329,659	17,858
Mr Wayne Bellman	Nil	Nil
Mr Michael Hogg	3,857,142	Nil

### Issued capital

As at the date of this Notice of Meeting and Explanatory Memorandum, the Company's issued capital is as follows:

#### Shares on Issue

Total Shares on issue 85,063,105

#### Options

The Company currently has 17,799,695 Options on issue on the following terms:

Terms	No. of Options
<b>Miscellaneous issues</b>	
Cobra A Options – exercisable at \$0.21 each on or before 30 September 2011	7,142,858
Cobra B Options – exercisable at \$0.35 each on or before 30 September 2011	3,571,429
Underwriter Options – exercisable at \$0.28 each on or before 30 November 2008	1,714,291
Old Series ESOP – exercisable at a range from \$0.343 to \$6.79 each on or before 15 December 2007 to 15 December 2009	405,029
Marshall Options – exercisable at \$0.84 each on or before 30 September 2009 for the first 25,000 customers signed	123,229
Harley Options – exercisable at \$0.70 each on or before 30 September 2010	214,286
<b>Options issued under Employee Share Option Plan and issued to James Myatt (as approved by shareholders in general meeting on 20 November 2006)</b>	
Class 1A – exercisable at \$0.49 each on or before 30 September 2008 for the receipt of licenses	400,000
Class 1B – exercisable at \$0.70 each on or before 30 September 2009 for the first 25,000 customers signed	685,714

<b>Terms</b>	<b>No. of Options</b>
Class 1C – exercisable at \$0.84 each on or before 30 September 2010 for the second 25,000 customers signed	685,714
Class 1D – exercisable at \$0.98 each on or before 30 September 2011 for the next 50,000 customers signed	828,572
Class 1E – exercisable at \$1.12 each on or before 30 September 2011 for 100,000 customers signed in the first 21 months	542,858
Class 2A – exercisable at \$0.84 each on or before 30 September 2008 for the signing of gas and electricity agreements	57,143
Class 2B – exercisable at \$0.98 each on or before 30 September 2009 for the first 25,000 customers signed	57,143
Class 2C – exercisable at \$1.12 each on or before 30 September 2010 for the second 25,000 customers signed	57,143
Class 2D – exercisable at \$1.26 each on or before 30 September 2011 for the next 50,000 customers signed	57,143
Class 2E – exercisable at \$1.26 each on or before 30 September 2011 for achieving an energy price on a settled basis within agreed budget pricing for the first four years of the company acquiring customers	57,143
<b>Options issued to Cornell</b>	
Cornell Options Series A – exercisable at \$0.71918 each on or before of 5 years from 2 July 2007	400,000
Cornell Options Series B – exercisable at \$0.78456 each on or before of 5 years from 2 July 2007	400,000
Cornell Options Series C – exercisable at \$0.84994 each on or before of 5 years from 2 July 2007	400,000
<b>TOTAL</b>	<b>17,799,695</b>

### Convertible Notes

The Company currently has 4,000,000 Convertible Notes on issue on the following terms:

<b>Terms</b>	<b>No. of Options</b>
\$1.00 face value, with a conversion price of \$0.64 and a conversion and redemption date of 22 June 2011	2,000,000
\$1.00 face value, with a conversion price of \$0.59 and a conversion and redemption date of 22 June 2011	2,000,000
<b>TOTAL</b>	<b>4,000,000</b>

**Appendix 1**  
**Cornell Convertible Loan - Repayment Schedule**

<b>Repayment</b>	<b>Repayment Date *</b>	<b>Repayment Amount (A\$)</b>
1	25	\$75,000
2	50	\$75,000
3	75	\$75,000
4	100	\$75,000
5	125	\$75,000
6	150	\$75,000
7	175	\$150,000
8	200	\$150,000
9	225	\$150,000
10	250	\$150,000
11	275	\$150,000
12	300	\$200,000
13	325	\$200,000
14	350	\$200,000
15	375	\$200,000
16	400	\$200,000
17	425	\$225,000
18	450	\$225,000
19	275	\$225,000
20	500	\$225,000
21	525	\$225,000
22	550	\$250,000
23	575	\$250,000
24	600	\$250,000
25	625	\$250,000
26	650	\$250,000
27	675	\$425,000
	<b>TOTAL</b>	<b>A\$5,000,000</b>

\* Dates are expressed in terms of Trading Days beginning on the 90<sup>th</sup> calendar day following the date on which the Convertible Loan is drawn down by the Company.

## **Appendix 2**

### **Terms and Conditions of Bellman Options**

Each Bellman Option will entitle the holder to subscribe for one Share in the Company on the following terms:

- (a) the options may be exercisable at any time prior to 5:00pm WST on 30 September 2010 (**Expiry Date**). Options not exercised on or before the Expiry Date will automatically lapse;
- (b) the exercise price of each option is \$0.70;
- (c) the options may be exercised wholly or in part by completing an application form for Shares (**Notice of Exercise**) delivered to the Company's share registry and received by it any time prior to the Expiry Date;
- (d) upon the exercise of an option and receipt of all relevant documents and payment, the holder will be allotted and issued a Share ranking equally with the then issued Shares. The Company will apply to ASX to have the Shares granted Official Quotation. The options will not be listed on ASX;
- (e) a summary of the terms and conditions of the options, including the Notice of Exercise, will be sent to all holders of options when the initial holding statement is sent;
- (f) there will be no participating entitlement inherent in the options to participate in the new issues of capital which may be offered to shareholders during the currency of the options. Prior to any new pro rata issue of securities to Shareholders, holder of options will be notified by the Company in accordance with the requirements of the ASX Listing Rules;
- (g) in the event the Company proceeds with a pro rata issue (except a bonus issue) of securities to the holders of Shares after the date of issue of the options, the exercise price of the options will be adjusted in accordance with the formula set out in ASX Listing Rule 6.22.2;
- (h) in the event of any reconstruction (including consolidation, sub-division, reduction or return) of the issued capital of the Company prior to the expiry date, all rights of an option holder are to be changed in a manner consistent with the ASX Listing Rules; and
- (i) Shares issued pursuant to the exercise of an option will be issued not more than 14 days after the date of the Notice of Exercise.

### Appendix 3

#### Terms and Conditions of McGregor Options

Each McGregor Option will entitle the holder to subscribe for one Share in the Company on the following terms:

- (a) the options may be exercisable at any time prior to 5:00pm WST on 30 September 2010 (**Expiry Date**). Options not exercised on or before the Expiry Date will automatically lapse;
- (b) the exercise price of each option is \$0.70;
- (c) the options may be exercised wholly or in part by completing an application form for Shares (**Notice of Exercise**) delivered to the Company's share registry and received by it any time prior to the Expiry Date;
- (d) upon the exercise of an option and receipt of all relevant documents and payment, the holder will be allotted and issued a Share ranking equally with the then issued Shares. The Company will apply to ASX to have the Shares granted Official Quotation. The options will not be listed on ASX;
- (e) a summary of the terms and conditions of the options, including the Notice of Exercise, will be sent to all holders of options when the initial holding statement is sent;
- (f) there will be no participating entitlement inherent in the options to participate in the new issues of capital which may be offered to Shareholders during the currency of the options. Prior to any new pro rata issue of securities to Shareholders, holder of options will be notified by the Company in accordance with the requirements of the ASX Listing Rules;
- (g) in the event the Company proceeds with a pro rata issue (except a bonus issue) of securities to the holders of Shares after the date of issue of the options, the exercise price of the options will be adjusted in accordance with the formula set out in ASX Listing Rule 6.22.2;
- (h) in the event of any reconstruction (including consolidation, sub-division, reduction or return) of the issued capital of the Company prior to the expiry date, all rights of an option holder are to be changed in a manner consistent with the ASX Listing Rules; and
- (i) Shares issued pursuant to the exercise of an option will be issued not more than 14 days after the date of the Notice of Exercise.



**Australian Power & Gas**

[www.australianpowerandgas.com.au](http://www.australianpowerandgas.com.au)

**PROXY FORM**

**APPOINTMENT OF PROXY  
AUSTRALIAN POWER AND GAS COMPANY LIMITED  
ABN 96 077 206 583**

I/We   
being a Member of Australian Power and Gas Company Limited entitled to attend and vote at the General Meeting, hereby

Appoint   
Name of proxy

or failing the person so named or, if no person is named, the Chairman of the Meeting or the Chairman's nominee, to vote in accordance with the following directions or, if no directions have been given, as the proxy sees fit at the General Meeting to be held at 11 am (EST) on Tuesday, 28 August 2007 at Milson Room, Vibe Hotel North Sydney, 88 Alfred Street, Milsons Point NSW 2061 and at any adjournment thereof. If no directions are given, the Chairman will vote in favour of all of the resolutions.

<b>Voting on Business of the General Meeting</b>		<b>FOR</b>	<b>AGAINST</b>	<b>ABSTAIN</b>
Resolution 1	Approval of previous issues of securities under Standby Equity Facility Agreement to Cornell	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 2	Approval of future issue of securities under Standby Equity Facility Agreement to Cornell	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 3	Approval of future issue of securities under Convertible Loan Agreement to Cornell	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 4	Approval of issue of options under Convertible Loan Agreement to Cornell	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 5	Approval of previous issue of Convertible Notes to Fortress	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 6	Approval of future issue of Convertible Notes to Fortress	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 7	Approval of issue of options to Fortress	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 8	Approval of previous issue of options under Employee Share Option Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 9	Approval of issue of options under Employee Share Share Option Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 10	Approval of issue of options to Ian McGregor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Resolution 11	Approval of issue of options to Wayne Bellman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If the Chair of the Meeting is appointed as your proxy, or may be appointed by default and you do **not** wish to direct your proxy how to vote as your proxy in respect of a resolution, please place a mark in this box.

By marking this box, you acknowledge that the Chairman of the meeting may exercise your proxy even though he has an interest in the outcome of the resolution and votes cast by him other than as proxy holder will be disregarded because of that interest. The Chairman will vote in favour of all of the resolutions if no directions are given.

**YOU MUST EITHER MARK THE BOXES DIRECTING YOUR PROXY HOW TO VOTE OR MARK THE BOX INDICATING THAT YOU DO NOT WISH TO DIRECT YOUR PROXY HOW TO VOTE, OTHERWISE THIS APPOINTMENT OF PROXY FORM WILL BE DISREGARDED.**

If you mark the abstain box for a particular item, you are directing your proxy not to vote on that item on a show of hands or on a poll and that your shares are not to be counted in computing the required majority on a poll.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 2007

**By: Individuals and joint holders**

Signature

Signature

Signature

**Companies (affix common seal if appropriate)**

Director

Director/Company Secretary

Sole Director and Sole Company Secretary

**Instructions for Completing 'Appointment of Proxy' Form**

1. A member entitled to attend and vote at a Meeting is entitled to appoint not more than two proxies to attend and vote on their behalf. Where more than one proxy is appointed, such proxy must be allocated a proportion of the member's voting rights. If the shareholder appoints two proxies and the appointment does not specify this proportion, each proxy may exercise half the votes.
2. A duly appointed proxy need not be a member of the Company. In the case of joint holders, all must sign.
3. Corporate shareholders should comply with the execution requirements set out on the proxy form or otherwise with the provisions of Section 127 of the Corporations Act. Section 127 of the Corporations Act provides that a company may execute a document without using its common seal if the document is signed by:
  - directors of the company;
  - a director and a company secretary of the company; or
  - for a proprietary company that has a sole director who is also the sole company secretary – that director.

For the Company to rely on the assumptions set out in Section 129(5) and (6) of the Corporations Act, a document must appear to have been executed in accordance with Section 127(1) or (2). This effectively means that the status of the persons signing the document or witnessing the affixing of the seal must be set out and conform to the requirements of Section 127(1) or (2) as applicable. In particular, a person who witnesses the affixing of a common seal and who is the sole director and sole company secretary of the company must state that next to his or her signature.

4. Completion of a proxy form will not prevent individual shareholders from attending the meeting in person if they wish. Where a shareholder completes and lodges a valid proxy form and attends the meeting in person, then the proxy's authority to speak and vote for that shareholder is suspended while the shareholder is present at the meeting.
5. Where a proxy form or form of appointment of corporate representative is lodged and is executed under power of attorney, the power of attorney must be lodged in like manner as this proxy.
6. To vote by proxy, please complete and sign the proxy form enclosed with this Notice of Meeting as soon as possible and either:
  - (a) send or deliver the proxy form to Australian Power and Gas Company Limited, c/- Franks & Associates Pty Ltd, Suite 206 The Bentleigh, 1 Katherine Street, Chatswood, New South Wales 2067; or
  - (b) send the proxy form by facsimile to the Company Secretary on facsimile number 02 9419 2944;
  - (c) send the proxy form by email to [dfranks@fa.com.au](mailto:dfranks@fa.com.au)

so that it is received not later than 11 am EST on Sunday, 26 August 2007.

**Proxy forms received later than this time will be invalid.**