

## Representation Plan submitted on behalf of Nanyu Tobacco

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This representation plan sets out the facts relevant to the mediation, the issues in dispute, the interests of Nanyu Tobacco and the approach to mediation that Nanyu Tobacco will adopt.

### 1. Facts

Nanyu Tobacco and Real Quik entered into a 10-year distribution agreement on 14 December 2010 (**Agreement**). In summary, the relevant obligations included:

- a) the sale and purchase of tobacco products;
- b) the sale and purchase of branded merchandise; and
- c) the display of tobacco products and branded merchandise.

Bill 275 entered into force on 1 January 2013. Bill 275 prevented the sale and display of tobacco branded goods. Prior to Bill 275, the parties were performing their obligations without fault. In order to comply with Bill 275, Nanyu Tobacco altered the packaging of its tobacco products. However, on 1 May 2013, Real Quik informed Nanyu Tobacco that it would no longer perform its duties under the Agreement. Subsequently, on 1 June 2013 Nanyu Tobacco notified Real Quik that it was contractually required to pay USD \$75 million (**Unpaid Sum**). Real Quik has not paid the unpaid sum.

### 2. Issues

The issues for the mediation fall into two categories. Each category may be divided into further talking points:

- **Category 1** – issues in relation to resolving the existing dispute.
- **Category 2** – issues in relation to preserving or improving any future business between the parties.

Category 1	Category 2
Whether Unpaid Sum is required to be paid	Alternative sale and purchase obligations
Alternative compensation	Legality of future obligations
	Duration of contract
	Future dispute avoidance tools

### 3. Interests

- Maintain profitability of commercial agreements in Gondwana.
- Maintain dominant position in Gondwandan tobacco industry.
- Continue to be one of the largest tobacco producers in Nanyu.
- Continue to have global presence in worldwide tobacco market.

### 4. Mediation strategy

Mr Chow is the CEO of Nanyu Tobacco. Mr Chow will attend the mediation with his legal counsel. Counsel will assist Mr Chow in objectively considering options to settle.

Mr Chow intends to discuss with Mr Mancuso the events that have brought the parties to mediation. Mr Chow invites Mr Mancuso proffer alternative ways that the parties can conclude a new agreement that benefits both parties commercially.

Mr Chow intends to negotiate, in detail, a new commercial agreement that meets the parties' interests and reflects the commercial reality of the current situation. Mr Chow will prefer a new commercial agreement over any prospective arbitral award if the new commercial agreement resolves the issues associated with the sale/purchase obligations, the marketing requirements, the duration of the agreement and future impediments to the parties' performance of the agreement. Mr Chow stresses that he has not bound himself to these issues alone, but that the new agreement should address them as a minimum. The basis for a mediated settlement must be an arrangement that is commercially beneficial, grounded in commercial reality and resolves all of the issues in dispute.