Mediation Representation Plan for Conglomerated Nanyu Tobacco Ltd

Background to the dispute

Conglomerated Nanyu Tobacco Ltd (**'CNTL'**) and Real Quik Convenience Stores Ltd (**'Real Quik'**), collectively (**'the parties'),** commenced a ten-year period tobacco Distribution Agreement in 2000. On 14 December 2010, the parties renewed the contract by signing a new ten-year period Distribution Agreement (**'the Agreement'),** which provided *inter alia* that Real Quik purchase CNTL's tobacco products at a fixed price and be supplied with promotional merchandise by CNTL.

Pursuant to the Agreement, Real Quik was obliged to purchase ten million cartons/packages of tobacco products from CNTL per annum with a period of no longer than three months between orders. On 1 January 2013, plain-packaging tobacco legislation (**'Bill 275'**) was introduced in Gondwana where Real Quik operates its stores. Following the introduction of Bill 275, Real Quik purported to be unable to meet its obligations and sought to renegotiate the terms of the Agreement. The parties met on 11 April 2013 to discuss the Agreement but nothing was resolved nor agreed to and accordingly, the Agreement remained afoot. On 1 May 2013, Real Quik sent notice to CNTL that it would no longer be able to perform its duties under the Agreement, and that as a result it would be terminating the Agreement, effective from 1 June 2013. CNTL expected the Agreement to continue for the stipulated period of ten years and seeks damages of $USD 75 million pursuant to the early termination provision contained within the Agreement. CNTL has commenced arbitration proceedings against Real Quik to recover damages.

CNTL's Interests

CNTL has an interest in preserving the business relationship between the parties. However, CNTL seeks compensation in some form if it is required to renegotiate the terms of a new Agreement with Real Quik and allow it to reduce its purchase obligations therein. It is in CNTL's interests to pursue either damages under the early termination provision in the Agreement or some other agreed compensation from Real Quik. It is further in CNTL's interest to amend the Agreement so as to ensure that such conflicts as have arisen can be avoided in the future.

CNTL comes to mediation with the following four (4) interests and seeks to:

1. Be adequately compensated as per the liquidated damages clause so that both parties may be released from the Agreement entirely; OR
2. Negotiate a reduced settlement of damages for the loss that CNTL has suffered, with the promise of a new Agreement; AND
3. To negotiate the terms of the new Agreement; AND
4. Maintain a positive and lasting commercial relationship with Real Quik.

CNTL's Mediation Strategy

During the opening statements, Mr. Chow will outline his understanding of the issues and his respective interests. Mr. Mayfair will ensure Mr. Chow remains open minded and considers all possible positions. During the negotiation phase of the mediation, Mr. Chow and Mr. Mayfair will work together to explore all possible options to resolve the dispute and emphasise the greater cost to both parties if the commerical relationship was to end. At the conclusion of the mediation, it will be Mr. Chow who ultimately decides whether an acceptable outcome has been put on the table in light.