

SUPPLEMENTARY GAZETTE



**THE SOUTH AUSTRALIAN
GOVERNMENT GAZETTE**

PUBLISHED BY AUTHORITY

ALL PUBLIC ACTS appearing in this GAZETTE are to be considered official, and obeyed as such

ADELAIDE, FRIDAY, 10 NOVEMBER 2000

ELECTRICITY CORPORATIONS (RESTRUCTURING AND DISPOSAL) ACT 1999

Contracts of Agreement

NOTICE is hereby given that I, IAIN EVANS, Minister for Environment and Heritage in and for the State of South Australia have entered into the agreements set out below pursuant to clause 5 of Schedule 1 of the Electricity Corporations (Restructuring and Disposal) Act 1999 (SA):

Environmental Compliance Agreement

**THE MINISTER FOR ENVIRONMENT AND
HERITAGE**

And

**NATIONAL POWER SYNERGEN PTY LTD
(ACN 092 560 819)**

DRY CREEK POWER STATION

**Made pursuant to Clause 5 of Schedule 1 to the Electricity
Corporations (Restructuring and Disposal) Act 1999 (SA)**

Environmental Compliance Agreement

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Environmental Compliance Agreement

Date	
Parties	<ol style="list-style-type: none"> 1. THE MINISTER FOR ENVIRONMENT AND HERITAGE, being the Minister to whom the administration of the Environment Protection Act 1993 (SA) is committed (<i>Minister</i>); 2. NATIONAL POWER SYNERGEN PTY LTD (ACN 092 560 819) (<i>Synergen</i>).
Recitals	<p>A Synergen is the holder of a Specially Issued Licence which authorises the generation of electricity at the Dry Creek Power Station.</p> <p>B Clause 5 of Schedule 1 to the Restructuring and Disposal Act permits an agreement to be made between the Minister and the holder of a Specially Issued Licence requiring the licensee to undertake programs directed towards reducing the adverse effects on the environment of the operations authorised by the licence and containing provisions dealing with and limiting the licensee's environmental protection obligations in relation to those operations. It is a precondition to the making of such an agreement that the EPA approves the terms of the agreement.</p> <p>C This Agreement, the terms of which have been approved by the EPA, is made between the Minister and Synergen pursuant to Clause 5 of Schedule 1 to the Restructuring and Disposal Act.</p> <p>D In accordance with Clause 5 of Schedule 1 to the Restructuring and Disposal Act, this Agreement is binding on, and operates for the benefit of, Synergen, successive holders of the Specially Issued Licence referred to in Recital A and any person who holds some subsequently granted licence under the Electricity Act 1996 (SA) which authorises the operations to which this Agreement relates.</p> <p>E Also in accordance with Clause 5 of Schedule 1 to the Restructuring and Disposal Act, this Agreement prevails to the extent of any inconsistency between this Agreement, on the one hand, and the Environment Protection Act or any statutory instrument under that Act, on the other hand.</p> <p>F This Agreement replaces Exemption No. 11718, dated 28 May 1999, which has been granted by the EPA in relation to the Dry Creek Power Station under section 37 of the Environment Protection Act.</p>

Environmental Compliance Agreement

It is agreed as follows.

1. Definitions and Interpretations

1.1 Definitions

The following definitions apply unless the context requires otherwise.

Air Quality Policy means the Environment Protection (Air Quality) Policy 1994 authorised under Part 5 of the Environment Protection Act and any amendment to it or any replacement or new policies which deal with air emissions.

Applicable Limit means the lesser of the concentrations referred to in clause 3.1.

Dry Creek Power Station means the power station (as altered from time to time) which is located at the corner of Rumble Road and Churchill Road North, Dry Creek, South Australia 5094.

Emergency Demand means a period during which electricity generation by the Licensee is necessary to satisfy demand, as required by the National Electricity Market Management Company (NEMMCO), as a consequence of a shortfall of electricity caused by an unplanned outage or un-availability of another electricity generator or transmission asset.

Environmental Harm and *Material Environmental Harm* have the meanings ascribed to them under Section 5 of the Environment Protection Act.

Environment Protection Act means the Environment Protection Act 1993 (SA).

EPA means the Environment Protection Authority established under Part 3 of Division 1 of the Environment Protection Act.

EPA Licence means any environmental authorisation granted by the EPA under section 36 of the Environment Protection Act in relation to the Snuggery Power Station which is in force from time to time during the term of this Agreement (and, as at the date of this Agreement, means Licence No. 11526 dated 9 April 1999).

Operating Intermittently means non continuous electricity generation, as required by NEMMCO, but not due to Emergency Demand or Peak Load, and not base load generation (which is continuous electricity generation for 24 hours per day every day excepting times of planned or unplanned maintenance or repairs).

Peak Load means a period during which electricity generation by the Licensee is necessary to satisfy NEMMCO requirements regarding a short term period of high electricity demand not capable of being met by other generators.

NOx means oxides of nitrogen.

Environmental Compliance Agreement

reasonable and practical measures are measures which the EPA decides in its discretion are appropriate having regard to section 25(2) of, and other matters specified in, the Environment Protection Act, and having regard to the cost of such measures (including the cost of new equipment and recurrent operating costs) relative to the capital value and estimated residual life of the Dry Creek Power Station and its operating costs.

Restructuring and Disposal Act means the Electricity Corporations (Restructuring and Disposal) Act 1999 (SA).

Specially Issued Licence has the meaning ascribed to it under Section 3(1) of the Restructuring and Disposal Act.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural and the converse.
- (b) A reference to a clause or schedule is a reference to a clause of, or schedule to, this Agreement.
- (c) A reference to an agreement or document (including, without limitation, any reference to this Agreement) is to the agreement or document as amended, varied, supplemented, novated or replaced.
- (d) A reference to any Act or statutory instrument or particular provision of an Act or statutory instrument is taken to include:
 - (i) all regulations, orders or instruments issued under the Act, statutory instrument or provision;
 - (ii) any modification, consolidation, amendment, re-enactment, replacement or codification of the Act, statutory instrument or provision; and
 - (iii) any substituted Act or statutory instrument or substituted provision.
- (e) A reference to *writing* includes a facsimile transmission and any means of reproducing words in a tangible and permanently visible form.

1.3 EPA Licence

Nothing in this Agreement is to be construed as amending, modifying or replacing an EPA Licence except to the extent of any inconsistency between this Agreement and that EPA Licence, in which case this Agreement will prevail to the extent of that inconsistency.

2. Duration of Agreement

Subject to clause 7, this Agreement will take effect on the date of execution and will expire on 31 December 2020.

Environmental Compliance Agreement

3. Authorised NO_x Emission Levels

- 3.1 Subject to clause 3.2 and notwithstanding the Air Quality Policy, Synergen is authorised to discharge NO_x emissions at a concentration that exceeds the lesser of:
- (a) 70 milligrams per cubic metre (70mg/Nm³) in the residual gases, after completion of any process and before admixture with air, smoke, or other gases, from the gas turbine exhaust stack for the Dry Creek Power Station; and
 - (b) the maximum pollution level (if any) that would otherwise be permitted in relation to the Dry Creek Power Station under the Air Quality Policy,

where the Dry Creek Power Station is generating electrical energy during periods of Peak Load or Emergency Demand or is Operating Intermittently. During all other periods, Synergen must operate the Dry Creek Power Station in compliance with the NO_x emission limits in the Air Quality Policy.

- 3.2 Notwithstanding clause 3.1, Synergen is not authorised to discharge NO_x emissions in excess of 500mg/Nm³ in the residual gases after completion of any process and before admixture with air, smoke, or other gases, from the gas turbine exhaust stack for the Dry Creek Power Station.
- 3.3 For the purposes of clauses 3.1 and 3.2 NO_x emissions may be estimated using historical data demonstrating the relationship between the emission of NO_x and the output of the Dry Creek Power Station rather than actual physical sampling.

4. Synergen Obligations

- 4.1 Synergen will, in respect of the Dry Creek Power Station, take reasonable and practical measures for the purpose of seeking to achieve compliance as soon as possible during the term of this Agreement with the NO_x emission limits (if any) set out in the Air Quality Policy, including but not limited to:
- (a) making modifications to equipment design and changes to combustion and operating conditions; and
 - (b) implementing other actions in relation to reducing emissions of NO_x (including the installation of air pollution control equipment and changes to operating procedures).
- 4.2 Subject to clauses 3 and 4.1, Synergen will take all reasonable and practical measures to avoid or minimise the risk of Environmental Harm as a result of the operation of the Dry Creek Power Station and to improve the environmental performance of the Dry Creek Power Station.
- 4.3 Without in any way limiting Synergen's obligations under clauses 4.1 and 4.2, Synergen will comply with, and undertake the environmental improvements set out in, the Environment Improvement Program attached as schedule 1 to this Agreement, such program being directed towards reducing the adverse

Environmental Compliance Agreement

effects on the environment of the operations authorised by the Specially Issued Licence held by Synergen.

- 4.4 Prior to 31 October in each year, Synergen will provide to the EPA a report outlining the actions which Synergen has taken for the purposes of clauses 4.1, 4.2 and 4.3 in the 12 months up to 30 September in that year.
- 4.5 Synergen will conduct a monitoring program which is approved by the EPA to measure the ground level concentration of nitrogen dioxide from the exhaust of the Dry Creek Power Station. These measurements will be taken during 1 November to 31 March of each year, at a location not less than 50 metres from the gas turbine chimney for the Dry Creek Power Station in the downwind direction, predominantly during the summer season. Such measurements may be undertaken using passive sampling devices to provide weekly average concentrations of nitrogen dioxide.
- 4.6 Prior to 31 October in each year, Synergen will lodge an annual report with the EPA which contains, in respect of the Dry Creek Power Station, information derived from the monitoring required to be undertaken pursuant to this Agreement on the number of occasions, duration of each occasion and total time during the 12 months up to 30 September in that year during which NO_x emissions from the gas turbine exhaust stack for the Dry Creek Power Station were in excess of the Applicable Limit.
- 4.7 Within 6 months of the date of this Agreement Synergen will prepare, to the satisfaction of the EPA, a plan of action to be taken in the event of emergencies that might foreseeably arise out of the operation of the Dry Creek Power Station that might involve the risk of Environmental Harm.

For these purposes the EPA may:

- (a) specify the inquiries to be made prior to the preparation of the plan; and
- (b) specify the qualifications of the person who may be appointed or engaged by Synergen to conduct the inquiries and prepare the plan.

If so required by the EPA, Synergen will publish the approved plan or an outline of the plan in a manner specified by the EPA.

5. Breach

If Synergen breaches clause 3.1 or 3.2 of this Agreement in relation to the Dry Creek Power Station then, to the extent that breach would (but for this Agreement) result in Synergen contravening the Environment Protection Act or any statutory instrument under it or being liable under any Act or at law, Synergen will be liable for that contravention or will be liable under that Act or at law as if clause 3.1 or 3.2 (as the case may be) did not apply in relation to the Dry Creek Power Station.

Environmental Compliance Agreement

6. Review and Amendment

- 6.1 This Agreement can be amended at any time by agreement between Synergen and the EPA in accordance with Clause 5(7) of Schedule 1 to the Restructuring and Disposal Act.
- 6.2 The EPA (with the approval of the Minister) may at any time amend this Agreement consistent with its obligations and powers under the Environment Protection Act and in particular Section 45 (3) (b) (ii) thereof, to impose such further or altered obligations on Synergen in relation to the Dry Creek Power Station as the EPA considers necessary or desirable to ensure that the objects of the Environment Protection Act are met and, for the purposes of Clause 5(7) of Schedule 1 to the Restructuring and Disposal Act, Synergen hereby consents to the amendment of this Agreement (other than the amendment of clauses 2, 3, or 4.1) in accordance with any such amendments, such amendments to be published in accordance with Clause 5(8) of Schedule 1 to the Restructuring and Disposal Act.
- 6.3 Within the three months prior to each of 31 December 2008, 31 December 2012 and 31 December 2016, the Minister will request the EPA to conduct a review, in consultation with Synergen, to determine whether the continued operation of the Dry Creek Power Station is consistent with the objects of the Environment Protection Act. Synergen will provide to the EPA such information as the EPA requests for the purpose of conducting this review. The EPA will report the results of this review to the Minister.

7. Termination

- 7.1 Subject to clause 7.2, the Minister may terminate this Agreement by notice in writing to Synergen:
- (a) if the Minister is satisfied that Material Environmental Harm has been caused by the emission of NO_x from the Dry Creek Power Station in excess of the Applicable Limit;
 - (b) following a review under clause 6.3, and taking into account the results of that review, if the Minister is satisfied that the continued operation of the Dry Creek Power Station is not consistent with the objects of the Environment Protection Act;
 - (c) if the Minister is satisfied that, contrary to clause 4.1, Synergen has not taken reasonable and practical measures in respect of the Dry Creek Power Station for the purpose of seeking to achieve compliance as soon as possible during the term of this Agreement with the NO_x emission limits (if any) set out in the Air Quality Policy;
 - (d) if the Minister is satisfied that, contrary to clause 4.2, Synergen has not taken all reasonable and practical measures to avoid or minimise the risk of Environmental Harm as a result of the operation of the Dry Creek Power Station and to improve the environmental performance of the Dry Creek Power Station;

Environmental Compliance Agreement

- (e) Synergen fails to comply with, and undertake the environmental improvements set out in, the Environment Improvement Program attached as schedule 1 to this Agreement;
 - (f) as part of any major refurbishment or upgrade of the Dry Creek Power Station which is undertaken by Synergen, Synergen could take reasonable and practical measures to use equipment and introduce combustion and operating conditions or operating procedures which would achieve compliance with the NO_x emission limits (if any) set out in the Air Quality Policy but Synergen fails to do so;
 - (g) Synergen ceases to hold a valid EPA Licence for the Dry Creek Power Station as a result of its cancellation, revocation or termination;
 - (h) Synergen fails to pay the fee set out in clause 8 within 30 days of the Minister demanding payment of that fee once it has become due; or
 - (i) there has been any other material breach of this Agreement by Synergen.
- 7.2 (a) Subject to clause 7.2(b), this Agreement may not be terminated pursuant to clause 7.1 unless the Minister has first given:
- (i) 60 days notice in writing to Synergen that the Minister proposes to terminate this Agreement, together with reasons for that proposed termination; and
 - (ii) an opportunity to Synergen to make written submissions to the Minister as to why this Agreement should not be so terminated, such submissions to be made within 28 days of the notice referred to in clause 7.2(a)(i) being sent to Synergen.
- (b) If, after seeking the opinion of the EPA in light of any such submissions made by Synergen, the Minister has not withdrawn a notice given pursuant to clause 7.2(a) prior to the expiry of the 60 day period referred to in that clause, the Minister may terminate this Agreement by giving a further notice in writing to Synergen.
- 7.3 Synergen may terminate this Agreement at any time by notice in writing to the Minister.

8. Fee

On 31 October in each year, Synergen will pay an annual fee to the Minister of 100 fee units (as defined in the Environment Protection Act) as a contribution towards the costs of the EPA in administering this Agreement.

Environmental Compliance Agreement

EXECUTED in Adelaide, South Australia.

THE COMMON SEAL of THE MINISTER)
FOR ENVIRONMENT AND HERITAGE OF)
THE STATE OF SOUTH AUSTRALIA)

was duly affixed in the presence of:)



_____)
Witness)

Witness

Iain Evans)

Print Name IAIN TYLER-ROSS .

SIGNED for and on behalf of)

NATIONAL POWER SYNERGEN PTY LTD)

by its duly authorised attorney under a power of)
attorney dated 10th May 2000.)

in the presence of)

[Signature])
.....)

Signature of Witness)

E Metcalfe)
.....)

Signature of Attorney)

MICHAEL WH PAKKER)
.....)

Name of Witness (block letters))

EDWARD METCALFE)
.....)

Name of Attorney (block letters)

The terms of this Agreement are hereby approved prior to execution by the)
Environment Protection Authority this 5th day of July 2000.)

[Signature])
.....)

Environment Protection Authority

Authorised Delegate

Environmental Compliance Agreement

SCHEDULE 1

ENVIRONMENT IMPROVEMENT PROGRAM

Environmental Improvement Program – Dry Creek Power Station

1. Monitoring and Modelling of Environmental Impacts

1.1 In addition to the monitoring required by clause 4.5 of the Environmental Compliance Agreement, Synergen, in order to provide information as to the impact of the Dry Creek Power Station on the environment and as to the effectiveness of the measures to limit the impact of the Dry Creek Power Station it has undertaken as required by the Environmental Compliance Agreement, will:

- (a) carry out the monitoring program required by clause 4.5 of the Environmental Compliance Agreement not only at a downwind location but also at three other monitoring points so as to provide a 360° picture of its impact;
- (b) every two years carry out actual sampling of the stack emissions discharges produced by the Dry Creek Power Station;
- (c) ensure that all monitoring of NO_x emissions carried out under paragraphs 1.1 (a) or (b) above is conducted by independent third party contractors;
- (d) provide a report to the EPA within two months of the monitoring being carried out detailing the results of the monitoring program so carried out.

1.2 Every two years Synergen will:

- (a) use the sampling results referred to in paragraph 1.1 (b) to model the plume of discharges from the Dry Creek Power Station (using the Ausplume 4 modelling technique or its equivalent);
- (b) correlate the days that the Dry Creek Power Station operates with the predictions of the model;
- (c) provide to the EPA (within three months of completing the plume modelling) a report setting out:
 - (i) the results of the modelling;
 - (ii) the predicted ground level concentrations based on the actual days of operation correlated with the predictions of the model;
 - (iii) a comparison of these ground level concentrations and applicable standards;
 - (iv) the electricity market factors responsible for the operation of the Dry Creek Power Station on particular days.

1.3 Every two years Synergen will use the sampling results referred to in paragraph 1.1 (b) and an EPA approved regional air shed model to prepare a report to the EPA on the effects (if any) of the plume on the quality of the regional air shed.

2. Community Consultation

Synergen will hold an annual community consultation meeting to discuss any matters that members of the public wish to raise in respect of the environmental aspects of the operations of the Dry Creek Power Station.

3. Environmental Management System

3.1 Synergen will carry out an independent annual environmental audit of the operations of the Dry Creek Power Station.

- 3.2 Synergen will carry out an independent environmental audit of the adequacy of its environmental management system relating to the Dry Creek Power Station on a biennial basis.
- 3.3 Synergen will regularly inspect the site of the Dry Creek Power Station to ensure that it is free of litter, rubbish or other debris.
- 3.4 Synergen will regularly inspect the site of the Dry Creek Power Station to ensure that all materials and wastes at the site which have the potential to pollute the environment are properly stored and contained.
4. **Contaminated Site Assessment**

By 2008, Synergen will carry out a contaminated site assessment and (if necessary) will have cleaned up any contamination that poses a material risk to health, safety or the environment.
5. **Implementation Reports**
 - 5.1 Synergen will provide an annual report to the EPA that:
 - (a) indicates any emissions from the Dry Creek Power Station during the year to which the report relates that exceeded the Air Quality Policy; and
 - (b) details the measures that have been undertaken during the year to which the report relates pursuant to this Environmental Improvement Program.
6. **Other Environmental Improvements**
 - 6.1 Synergen will maintain documented records of fuel deliveries to, and storage and use at, the Dry Creek Power Station.
 - 6.2 Synergen will undertake regular monitoring of stormwater control systems at the Dry Creek Power Station.
 - 6.3 Synergen will undertake regular amenity inspections of the site of the Dry Creek Power Station and ensure that landscaping and buildings are maintained in a proper manner.

Environmental Compliance Agreement

**THE MINISTER FOR ENVIRONMENT AND
HERITAGE**

And

**NATIONAL POWER SYNERGEN PTY LTD
(ACN 092 560 819)**

MINTARO POWER STATION

**Made pursuant to Clause 5 of Schedule 1 to the Electricity
Corporations (Restructuring and Disposal) Act 1999 (SA)**

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Date	
Parties	
1.	THE MINISTER FOR ENVIRONMENT AND HERITAGE, being the Minister to whom the administration of the Environment Protection Act 1993 (SA) is committed (<i>Minister</i>);
2.	NATIONAL POWER SYNERGEN PTY LTD (ACN 092 560 819) (<i>Synergen</i>).
Recitals	
A	Synergen is the holder of a Specially Issued Licence which authorises the generation of electricity at the Mintaro Power Station.
B	Clause 5 of Schedule 1 to the Restructuring and Disposal Act permits an agreement to be made between the Minister and the holder of a Specially Issued Licence requiring the licensee to undertake programs directed towards reducing the adverse effects on the environment of the operations authorised by the licence and containing provisions dealing with and limiting the licensee's environmental protection obligations in relation to those operations. It is a precondition to the making of such an agreement that the EPA approves the terms of the agreement.
C	This Agreement, the terms of which have been approved by the EPA, is made between the Minister and Synergen pursuant to Clause 5 of Schedule 1 to the Restructuring and Disposal Act.
D	In accordance with Clause 5 of Schedule 1 to the Restructuring and Disposal Act, this Agreement is binding on, and operates for the benefit of, Synergen, successive holders of the Specially Issued Licence referred to in Recital A and any person who holds some subsequently granted licence under the Electricity Act 1996 (SA) which authorises the operations to which this Agreement relates.
E	Also in accordance with Clause 5 of Schedule 1 to the Restructuring and Disposal Act, this Agreement prevails to the extent of any inconsistency between this Agreement, on the one hand, and the Environment Protection Act or any statutory instrument under that Act, on the other hand.
F	This Agreement replaces Exemption No. 11738, dated 28 May 1999, which has been granted by the EPA in relation to the Mintaro Power Station under section 37 of the Environment Protection Act.

Environmental Compliance Agreement

It is agreed as follows.

1. Definitions and Interpretations

1.1 Definitions

The following definitions apply unless the context requires otherwise.

Air Quality Policy means the Environment Protection (Air Quality) Policy 1994 authorised under Part 5 of the Environment Protection Act and any amendment to it or any replacement or new policies which deal with air emissions.

Applicable Limit means the lesser of the concentrations referred to in clause 3.1.

Emergency Demand means a period during which electricity generation by the Licensee is necessary to satisfy demand, as required by the National Electricity Market Management Company (NEMMCO), as a consequence of a shortfall of electricity caused by an unplanned outage or un-availability of another electricity generator or transmission asset.

Environmental Harm and *Material Environmental Harm* have the meanings ascribed to them under Section 5 of the Environment Protection Act.

Environment Protection Act means the Environment Protection Act 1993 (SA).

EPA means the Environment Protection Authority established under Part 3 of Division 1 of the Environment Protection Act.

EPA Licence means any environmental authorisation granted by the EPA under section 36 of the Environment Protection Act in relation to the Snuggery Power Station which is in force from time to time during the term of this Agreement (and, as at the date of this Agreement, means Licence No. 11526 dated 9 April 1999).

Mintaro Power Station means the power station (as altered from time to time) which is located at Allotment 1, Deposited Plan 12055, Mintaro, South Australia 5415.

Operating Intermittently means non continuous electricity generation, as required by NEMMCO, but not due to Emergency Demand or Peak Load, and not base load generation (which is continuous electricity generation for 24 hours per day every day excepting times of planned or unplanned maintenance or repairs).

Peak Load means a period during which electricity generation by the Licensee is necessary to satisfy NEMMCO requirements regarding a short term period of high electricity demand not capable of being met by other generators.

NOx means oxides of nitrogen.

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reasonable and practical measures are measures which the EPA decides in its discretion are appropriate having regard to section 25(2) of, and other matters specified in, the Environment Protection Act, and having regard to the cost of such measures (including the cost of new equipment and recurrent operating costs) relative to the capital value and estimated residual life of the Mintaro Power Station and its operating costs.

Restructuring and Disposal Act means the Electricity Corporations (Restructuring and Disposal) Act 1999 (SA).

Specially Issued Licence has the meaning ascribed to it under Section 3(1) of the Restructuring and Disposal Act.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural and the converse.
- (b) A reference to a clause or schedule is a reference to a clause of, or schedule to, this Agreement.
- (c) A reference to an agreement or document (including, without limitation, any reference to this Agreement) is to the agreement or document as amended, varied, supplemented, novated or replaced.
- (d) A reference to any Act or statutory instrument or particular provision of an Act or statutory instrument is taken to include:
 - (i) all regulations, orders or instruments issued under the Act, statutory instrument or provision;
 - (ii) any modification, consolidation, amendment, re-enactment, replacement or codification of the Act, statutory instrument or provision; and
 - (iii) any substituted Act or statutory instrument or substituted provision.
- (e) A reference to *writing* includes a facsimile transmission and any means of reproducing words in a tangible and permanently visible form.

1.3 EPA Licence

Nothing in this Agreement is to be construed as amending, modifying or replacing an EPA Licence except to the extent of any inconsistency between this Agreement and that EPA Licence, in which case this Agreement will prevail to the extent of that inconsistency.

2. Duration of Agreement

Subject to clause 7, this Agreement will take effect on the date of execution and will expire on 31 December 2020.

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3. Authorised NO_x Emission Levels

- 3.1 Subject to clause 3.2 and notwithstanding the Air Quality Policy, Synergen is authorised to discharge NO_x emissions at a concentration that exceeds the lesser of:
- (a) 70 milligrams per cubic metre (70mg/Nm³) in the residual gases, after completion of any process and before admixture with air, smoke, or other gases, from the gas turbine exhaust stack for the Mintaro Power Station; and
 - (b) the maximum pollution level (if any) that would otherwise be permitted in relation to the Mintaro Power Station under the Air Quality Policy,

where the Mintaro Power Station is generating electrical energy during periods of Peak Load or Emergency Demand or is Operating Intermittently. During all other periods, Synergen must operate the Mintaro Power Station in compliance with the NO_x emission limits in the Air Quality Policy.

- 3.2 Notwithstanding clause 3.1, Synergen is not authorised to discharge NO_x emissions in excess of 300mg/Nm³ in the residual gases after completion of any process and before admixture with air, smoke, or other gases, from the gas turbine exhaust stack for the Mintaro Power Station.
- 3.3 For the purposes of clauses 3.1 and 3.2 NO_x emissions may be estimated using historical data demonstrating the relationship between the emission of NO_x and the output of the Mintaro Power Station rather than actual physical sampling.

4. Synergen Obligations

- 4.1 Synergen will, in respect of the Mintaro Power Station, take reasonable and practical measures for the purpose of seeking to achieve compliance as soon as possible during the term of this Agreement with the NO_x emission limits (if any) set out in the Air Quality Policy, including but not limited to:
- (a) making modifications to equipment design and changes to combustion and operating conditions; and
 - (b) implementing other actions in relation to reducing emissions of NO_x (including the installation of air pollution control equipment and changes to operating procedures).
- 4.2 Subject to clauses 3 and 4.1, Synergen will take all reasonable and practical measures to avoid or minimise the risk of Environmental Harm as a result of the operation of the Mintaro Power Station and to improve the environmental performance of the Mintaro Power Station.
- 4.3 Without in any way limiting Synergen's obligations under clauses 4.1 and 4.2, Synergen will comply with, and undertake the environmental improvements set out in, the Environment Improvement Program attached as schedule 1 to this Agreement, such program being directed towards reducing the adverse

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effects on the environment of the operations authorised by the Specially Issued Licence held by Synergen.

- 4.4 Prior to 31 October in each year, Synergen will provide to the EPA a report outlining the actions which Synergen has taken for the purposes of clauses 4.1, 4.2 and 4.3 in the 12 months up to 30 September in that year.
- 4.5 Synergen will conduct a monitoring program which is approved by the EPA to measure the ground level concentration of nitrogen dioxide from the exhaust of the Mintaro Power Station. These measurements will be taken during 1 November to 31 March of each year, at a location not less than 50 metres from the gas turbine chimney for the Mintaro Power Station in the downwind direction, predominantly during the summer season. Such measurements may be undertaken using passive sampling devices to provide weekly average concentrations of nitrogen dioxide.
- 4.6 Prior to 31 October in each year, Synergen will lodge an annual report with the EPA which contains, in respect of the Mintaro Power Station, information derived from the monitoring required to be undertaken pursuant to this Agreement on the number of occasions, duration of each occasion and total time during the 12 months up to 30 September in that year during which NO_x emissions from the gas turbine exhaust stack for the Mintaro Power Station were in excess of the Applicable Limit.
- 4.7 Within 6 months of the date of this Agreement Synergen will prepare, to the satisfaction of the EPA, a plan of action to be taken in the event of emergencies that might foreseeably arise out of the operation of the Mintaro Power Station that might involve the risk of Environmental Harm.

For these purposes the EPA may:

- (a) specify the inquiries to be made prior to the preparation of the plan; and
- (b) specify the qualifications of the person who may be appointed or engaged by Synergen to conduct the inquiries and prepare the plan.

If so required by the EPA, Synergen will publish the approved plan or an outline of the plan in a manner specified by the EPA.

5. Breach

If Synergen breaches clause 3.1 or 3.2 of this Agreement in relation to the Mintaro Power Station then, to the extent that breach would (but for this Agreement) result in Synergen contravening the Environment Protection Act or any statutory instrument under it or being liable under any Act or at law, Synergen will be liable for that contravention or will be liable under that Act or at law as if clause 3.1 or 3.2 (as the case may be) did not apply in relation to the Mintaro Power Station.

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6. Review and Amendment

- 6.1 This Agreement can be amended at any time by agreement between Synergen and the EPA in accordance with Clause 5(7) of Schedule 1 to the Restructuring and Disposal Act.
- 6.2 The EPA (with the approval of the Minister) may at any time amend this Agreement consistent with its obligations and powers under the Environment Protection Act and in particular Section 45 (3) (b) (ii) thereof, to impose such further or altered obligations on Synergen in relation to the Mintaro Power Station as the EPA considers necessary or desirable to ensure that the objects of the Environment Protection Act are met and, for the purposes of Clause 5(7) of Schedule 1 to the Restructuring and Disposal Act, Synergen hereby consents to the amendment of this Agreement (other than the amendment of clauses 2, 3, or 4.1) in accordance with any such amendments, such amendments to be published in accordance with Clause 5(8) of Schedule 1 to the Restructuring and Disposal Act.
- 6.3 Within the three months prior to each of 31 December 2008, 31 December 2012 and 31 December 2016, the Minister will request the EPA to conduct a review, in consultation with Synergen, to determine whether the continued operation of the Mintaro Power Station is consistent with the objects of the Environment Protection Act. Synergen will provide to the EPA such information as the EPA requests for the purpose of conducting this review. The EPA will report the results of this review to the Minister.

7. Termination

- 7.1 Subject to clause 7.2, the Minister may terminate this Agreement by notice in writing to Synergen:
- (a) if the Minister is satisfied that Material Environmental Harm has been caused by the emission of NO_x from the Mintaro Power Station in excess of the Applicable Limit;
 - (b) following a review under clause 6.3, and taking into account the results of that review, if the Minister is satisfied that the continued operation of the Mintaro Power Station is not consistent with the objects of the Environment Protection Act;
 - (c) if the Minister is satisfied that, contrary to clause 4.1, Synergen has not taken reasonable and practical measures in respect of the Mintaro Power Station for the purpose of seeking to achieve compliance as soon as possible during the term of this Agreement with the NO_x emission limits (if any) set out in the Air Quality Policy;
 - (d) if the Minister is satisfied that, contrary to clause 4.2, Synergen has not taken all reasonable and practical measures to avoid or minimise the risk of Environmental Harm as a result of the operation of the Mintaro Power Station and to improve the environmental performance of the Mintaro Power Station;

Environmental Compliance Agreement

- (e) Synergen fails to comply with, and undertake the environmental improvements set out in, the Environment Improvement Program attached as schedule 1 to this Agreement;
 - (f) as part of any major refurbishment or upgrade of the Mintaro Power Station which is undertaken by Synergen, Synergen could take reasonable and practical measures to use equipment and introduce combustion and operating conditions or operating procedures which would achieve compliance with the NO_x emission limits (if any) set out in the Air Quality Policy but Synergen fails to do so;
 - (g) Synergen ceases to hold a valid EPA Licence for the Mintaro Power Station as a result of its cancellation, revocation or termination;
 - (h) Synergen fails to pay the fee set out in clause 8 within 30 days of the Minister demanding payment of that fee once it has become due; or
 - (i) there has been any other material breach of this Agreement by Synergen.
- 7.2 (a) Subject to clause 7.2(b), this Agreement may not be terminated pursuant to clause 7.1 unless the Minister has first given:
- (i) 60 days notice in writing to Synergen that the Minister proposes to terminate this Agreement, together with reasons for that proposed termination; and
 - (ii) an opportunity to Synergen to make written submissions to the Minister as to why this Agreement should not be so terminated, such submissions to be made within 28 days of the notice referred to in clause 7.2(a)(i) being sent to Synergen.
- (b) If, after seeking the opinion of the EPA in light of any such submissions made by Synergen, the Minister has not withdrawn a notice given pursuant to clause 7.2(a) prior to the expiry of the 60 day period referred to in that clause, the Minister may terminate this Agreement by giving a further notice in writing to Synergen.
- 7.3 Synergen may terminate this Agreement at any time by notice in writing to the Minister.

8. Fee

On 31 October in each year, Synergen will pay an annual fee to the Minister of 100 fee units (as defined in the Environment Protection Act) as a contribution towards the costs of the EPA in administering this Agreement.

Environmental Compliance Agreement

EXECUTED in Adelaide, South Australia.

THE COMMON SEAL of THE MINISTER)
FOR ENVIRONMENT AND HERITAGE OF)
THE STATE OF SOUTH AUSTRALIA)

was duly affixed in the presence of:)



[Handwritten signature])

Witness

[Handwritten signature: Lian Tyler-Ross])

Print Name LIAN TYLER-ROSS

SIGNED for and on behalf of)

NATIONAL POWER SYNERGEN PTY LTD)

by its duly authorised attorney under a power of)
attorney dated ... 10th MAY 2000.)

in the presence of)

[Handwritten signature])

Signature of Witness

[Handwritten signature: S. Metcalfe])

Signature of Attorney

[Handwritten signature: MICHAEL W M PARKER])

Name of Witness (block letters)

[Handwritten signature: EDWARD METCALFE])

Name of Attorney (block letters)

The terms of this Agreement are hereby approved prior to execution by the)
Environment Protection Authority this 5th day of July 2000.)

[Handwritten signature])

Environment Protection Authority

Authorised Delegate

Environmental Compliance Agreement

SCHEDULE 1

ENVIRONMENT IMPROVEMENT PROGRAM

Environmental Improvement Program – Mintaro Power Station

1. **Monitoring and Modelling of Environmental Impacts**
 - 1.1 In addition to the monitoring required by clause 4.5 of the Environmental Compliance Agreement, Synergen, in order to provide information as to the impact of the Mintaro Power Station on the environment and as to the effectiveness of the measures to limit the impact of the Mintaro Power Station it has undertaken as required by the Environmental Compliance Agreement, will:
 - (a) carry out the monitoring program required by clause 4.5 of the Environmental Compliance Agreement not only at a downwind location but also at three other monitoring points so as to provide a 360° picture of its impact;
 - (b) every two years carry out actual sampling of the stack emissions discharges produced by the Mintaro Power Station;
 - (c) ensure that all monitoring of NO_x emissions carried out under paragraphs 1.1 (a) or (b) above is conducted by independent third party contractors;
 - (d) provide a report to the EPA within two months of the monitoring being carried out detailing the results of the monitoring program so carried out.
 - 1.2 Every two years Synergen will:
 - (a) use the sampling results referred to in paragraph 1.1 (b) to model the plume of discharges from the Mintaro Power Station (using the Ausplume 4 modelling technique or its equivalent);
 - (b) correlate the days that the Mintaro Power Station operates with the predictions of the model;
 - (c) provide to the EPA (within three months of completing the plume modelling) a report setting out:
 - (i) the results of the modelling;
 - (ii) the predicted ground level concentrations based on the actual days of operation correlated with the predictions of the model;
 - (iii) a comparison of these ground level concentrations and applicable standards;
 - (iv) the electricity market factors responsible for the operation of the Mintaro Power Station on particular days.
 - 1.3 Every two years Synergen will use the sampling results referred to in paragraph 1.1 (b) and an EPA approved regional air shed model to prepare a report to the EPA on the effects (if any) of the plume on the quality of the regional air shed.
2. **Community Consultation**

Synergen will hold an annual community consultation meeting to discuss any matters that members of the public wish to raise in respect of the environmental aspects of the operations of the Mintaro Power Station.
3. **Environmental Management System**
 - 3.1 Synergen will carry out an independent annual environmental audit of the operations of the Mintaro Power Station.

- 3.2 Synergen will carry out an independent environmental audit of the adequacy of its environmental management system relating to the Mintaro Power Station on a biennial basis.
- 3.3 Synergen will regularly inspect the site of the Mintaro Power Station to ensure that it is free of litter, rubbish or other debris.
- 3.4 Synergen will regularly inspect the site of the Mintaro Power Station to ensure that all materials and wastes at the site which have the potential to pollute the environment are properly stored and contained.
4. **Contaminated Site Assessment**
By 2008, Synergen will carry out a contaminated site assessment and (if necessary) will have cleaned up any contamination that poses a material risk to health, safety or the environment.
5. **Implementation Reports**
 - 5.1 Synergen will provide an annual report to the EPA that:
 - (a) indicates any emissions from the Mintaro Power Station during the year to which the report relates that exceeded the Air Quality Policy; and
 - (b) details the measures that have been undertaken during the year to which the report relates pursuant to this Environmental Improvement Program.
6. **Other Environmental Improvements**
 - 6.1 Synergen will maintain documented records of fuel deliveries to, and storage and use at, the Mintaro Power Station.
 - 6.2 Synergen will undertake regular monitoring of stormwater control systems at the Mintaro Power Station.
 - 6.3 Synergen will undertake regular amenity inspections of the site of the Mintaro Power Station and ensure that landscaping and buildings are maintained in a proper manner.

Environmental Compliance Agreement

**THE MINISTER FOR ENVIRONMENT AND
HERITAGE**

And

**NATIONAL POWER SYNERGEN PTY LTD
(ACN 092 560 819)**

PORT LINCOLN POWER STATION

**Made pursuant to Clause 5 of Schedule 1 to the Electricity
Corporations (Restructuring and Disposal) Act 1999 (SA)**

Environmental Compliance Agreement

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Environmental Compliance Agreement

Date	
Parties	
1.	THE MINISTER FOR ENVIRONMENT AND HERITAGE, being the Minister to whom the administration of the Environment Protection Act 1993 (SA) is committed (<i>Minister</i>);
2.	NATIONAL POWER SYNERGEN PTY LTD (ACN 092 560 819) (<i>Synergen</i>).
Recitals	
A	Synergen is the holder of a Specially Issued Licence which authorises the generation of electricity at the Port Lincoln Power Station.
B	Clause 5 of Schedule 1 to the Restructuring and Disposal Act permits an agreement to be made between the Minister and the holder of a Specially Issued Licence requiring the licensee to undertake programs directed towards reducing the adverse effects on the environment of the operations authorised by the licence and containing provisions dealing with and limiting the licensee's environmental protection obligations in relation to those operations. It is a precondition to the making of such an agreement that the EPA approves the terms of the agreement.
C	This Agreement, the terms of which have been approved by the EPA, is made between the Minister and Synergen pursuant to Clause 5 of Schedule 1 to the Restructuring and Disposal Act.
D	In accordance with Clause 5 of Schedule 1 to the Restructuring and Disposal Act, this Agreement is binding on, and operates for the benefit of, Synergen, successive holders of the Specially Issued Licence referred to in Recital A and any person who holds some subsequently granted licence under the Electricity Act 1996 (SA) which authorises the operations to which this Agreement relates.
E	Also in accordance with Clause 5 of Schedule 1 to the Restructuring and Disposal Act, this Agreement prevails to the extent of any inconsistency between this Agreement, on the one hand, and the Environment Protection Act or any statutory instrument under that Act, on the other hand.
F	This Agreement replaces Exemption No. 11530, dated 9 April 1999, which has been granted by the EPA in relation to the Port Lincoln Power Station under section 37 of the Environment Protection Act.

Environmental Compliance Agreement

It is agreed as follows.

1. Definitions and Interpretations

1.1 Definitions

The following definitions apply unless the context requires otherwise.

Air Quality Policy means the Environment Protection (Air Quality) Policy 1994 authorised under Part 5 of the Environment Protection Act and any amendment to it or any replacement or new policies which deal with air emissions.

Applicable Limit means the lesser of the concentrations referred to in clause 3.1.

Emergency Demand means a period during which electricity generation by the Licensee is necessary to satisfy demand, as required by the National Electricity Market Management Company (NEMMCO), as a consequence of a shortfall of electricity caused by an unplanned outage or un-availability of another electricity generator or transmission asset.

Environmental Harm and *Material Environmental Harm* have the meanings ascribed to them under Section 5 of the Environment Protection Act.

Environment Protection Act means the Environment Protection Act 1993 (SA).

EPA means the Environment Protection Authority established under Part 3 of Division 1 of the Environment Protection Act.

EPA Licence means any environmental authorisation granted by the EPA under section 36 of the Environment Protection Act in relation to the Snuggery Power Station which is in force from time to time during the term of this Agreement (and, as at the date of this Agreement, means Licence No. 11526 dated 9 April 1999).

Operating Intermittently means non continuous electricity generation, as required by NEMMCO, but not due to Emergency Demand or Peak Load, and not base load generation (which is continuous electricity generation for 24 hours per day every day excepting times of planned or unplanned maintenance or repairs).

Peak Load means a period during which electricity generation by the Licensee is necessary to satisfy NEMMCO requirements regarding a short term period of high electricity demand not capable of being met by other generators.

NOx means oxides of nitrogen.

Port Lincoln Power Station means the power station (as altered from time to time) which is located at Pound Road, Port Lincoln, South Australia 5606.

Environmental Compliance Agreement

reasonable and practical measures are measures which the EPA decides in its discretion are appropriate having regard to section 25(2) of, and other matters specified in, the Environment Protection Act, and having regard to the cost of such measures (including the cost of new equipment and recurrent operating costs) relative to the capital value and estimated residual life of the Port Lincoln Power Station and its operating costs.

Restructuring and Disposal Act means the Electricity Corporations (Restructuring and Disposal) Act 1999 (SA).

Specially Issued Licence has the meaning ascribed to it under Section 3(1) of the Restructuring and Disposal Act.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural and the converse.
- (b) A reference to a clause or schedule is a reference to a clause of, or schedule to, this Agreement.
- (c) A reference to an agreement or document (including, without limitation, any reference to this Agreement) is to the agreement or document as amended, varied, supplemented, novated or replaced.
- (d) A reference to any Act or statutory instrument or particular provision of an Act or statutory instrument is taken to include:
 - (i) all regulations, orders or instruments issued under the Act, statutory instrument or provision;
 - (ii) any modification, consolidation, amendment, re-enactment, replacement or codification of the Act, statutory instrument or provision; and
 - (iii) any substituted Act or statutory instrument or substituted provision.
- (e) A reference to *writing* includes a facsimile transmission and any means of reproducing words in a tangible and permanently visible form.

1.3 EPA Licence

Nothing in this Agreement is to be construed as amending, modifying or replacing an EPA Licence except to the extent of any inconsistency between this Agreement and that EPA Licence, in which case this Agreement will prevail to the extent of that inconsistency.

2. Duration of Agreement

Subject to clause 7, this Agreement will take effect on the date of execution and will expire on 31 December 2020.

Environmental Compliance Agreement

3. Authorised NO_x Emission Levels

- 3.1 Subject to clause 3.2 and notwithstanding the Air Quality Policy, Synergen is authorised to discharge NO_x emissions at a concentration that exceeds the lesser of:
- (a) 150 milligrams per cubic metre (150mg/Nm³) in the residual gases, after completion of any process and before admixture with air, smoke, or other gases, from the gas turbine exhaust stack for the Port Lincoln Power Station; and
 - (b) the maximum pollution level (if any) that would otherwise be permitted in relation to the Port Lincoln Power Station under the Air Quality Policy,
- where the Port Lincoln Power Station is generating electrical energy during periods of Peak Load or Emergency Demand or is Operating Intermittently. During all other periods, Synergen must operate the Port Lincoln Power Station in compliance with the NO_x emission limits in the Air Quality Policy.
- 3.2 Notwithstanding clause 3.1, Synergen is not authorised to discharge NO_x emissions in excess of 500mg/Nm³ in the residual gases after completion of any process and before admixture with air, smoke, or other gases, from the gas turbine exhaust stack for the Port Lincoln Power Station.
- 3.3 For the purposes of clauses 3.1 and 3.2 NO_x emissions may be estimated using historical data demonstrating the relationship between the emission of NO_x and the output of the Port Lincoln Power Station rather than actual physical sampling.

4. Synergen Obligations

- 4.1 Synergen will, in respect of the Port Lincoln Power Station, take reasonable and practical measures for the purpose of seeking to achieve compliance as soon as possible during the term of this Agreement with the NO_x emission limits (if any) set out in the Air Quality Policy, including but not limited to:
- (a) making modifications to equipment design and changes to combustion and operating conditions; and
 - (b) implementing other actions in relation to reducing emissions of NO_x (including the installation of air pollution control equipment and changes to operating procedures).
- 4.2 Subject to clauses 3 and 4.1, Synergen will take all reasonable and practical measures to avoid or minimise the risk of Environmental Harm as a result of the operation of the Port Lincoln Power Station and to improve the environmental performance of the Port Lincoln Power Station.
- 4.3 Without in any way limiting Synergen's obligations under clauses 4.1 and 4.2, Synergen will comply with, and undertake the environmental improvements set out in, the Environment Improvement Program attached as schedule 1 to this Agreement, such program being directed towards reducing the adverse

Environmental Compliance Agreement

effects on the environment of the operations authorised by the Specially Issued Licence held by Synergen.

- 4.4 Prior to 31 October in each year, Synergen will provide to the EPA a report outlining the actions which Synergen has taken for the purposes of clauses 4.1, 4.2 and 4.3 in the 12 months up to 30 September in that year.
- 4.5 Synergen will conduct a monitoring program which is approved by the EPA to measure the ground level concentration of nitrogen dioxide from the exhaust of the Port Lincoln Power Station. These measurements will be taken during 1 November to 31 March of each year, at a location not less than 50 metres from the gas turbine chimney for the Port Lincoln Power Station in the downwind direction, predominantly during the summer season. Such measurements may be undertaken using passive sampling devices to provide weekly average concentrations of nitrogen dioxide.
- 4.6 Prior to 31 October in each year, Synergen will lodge an annual report with the EPA which contains, in respect of the Port Lincoln Power Station, information derived from the monitoring required to be undertaken pursuant to this Agreement on the number of occasions, duration of each occasion and total time during the 12 months up to 30 September in that year during which NO_x emissions from the gas turbine exhaust stack for the Port Lincoln Power Station were in excess of the Applicable Limit.
- 4.7 Within 6 months of the date of this Agreement Synergen will prepare, to the satisfaction of the EPA, a plan of action to be taken in the event of emergencies that might foreseeably arise out of the operation of the Port Lincoln Power Station that might involve the risk of Environmental Harm.

For these purposes the EPA may:

- (a) specify the inquiries to be made prior to the preparation of the plan; and
- (b) specify the qualifications of the person who may be appointed or engaged by Synergen to conduct the inquiries and prepare the plan.

If so required by the EPA, Synergen will publish the approved plan or an outline of the plan in a manner specified by the EPA.

5. Breach

If Synergen breaches clause 3.1 or 3.2 of this Agreement in relation to the Port Lincoln Power Station then, to the extent that breach would (but for this Agreement) result in Synergen contravening the Environment Protection Act or any statutory instrument under it or being liable under any Act or at law, Synergen will be liable for that contravention or will be liable under that Act or at law as if clause 3.1 or 3.2 (as the case may be) did not apply in relation to the Port Lincoln Power Station.

Environmental Compliance Agreement

6. Review and Amendment

- 6.1 This Agreement can be amended at any time by agreement between Synergen and the EPA in accordance with Clause 5(7) of Schedule 1 to the Restructuring and Disposal Act.
- 6.2 The EPA (with the approval of the Minister) may at any time amend this Agreement consistent with its obligations and powers under the Environment Protection Act and in particular Section 45 (3) (b) (ii) thereof, to impose such further or altered obligations on Synergen in relation to the Port Lincoln Power Station as the EPA considers necessary or desirable to ensure that the objects of the Environment Protection Act are met and, for the purposes of Clause 5(7) of Schedule 1 to the Restructuring and Disposal Act, Synergen hereby consents to the amendment of this Agreement (other than the amendment of clauses 2, 3, or 4.1) in accordance with any such amendments, such amendments to be published in accordance with Clause 5(8) of Schedule 1 to the Restructuring and Disposal Act.
- 6.3 Within the three months prior to each of 31 December 2008, 31 December 2012 and 31 December 2016, the Minister will request the EPA to conduct a review, in consultation with Synergen, to determine whether the continued operation of the Port Lincoln Power Station is consistent with the objects of the Environment Protection Act. Synergen will provide to the EPA such information as the EPA requests for the purpose of conducting this review. The EPA will report the results of this review to the Minister.

7. Termination

- 7.1 Subject to clause 7.2, the Minister may terminate this Agreement by notice in writing to Synergen:
- (a) if the Minister is satisfied that Material Environmental Harm has been caused by the emission of NO_x from the Port Lincoln Power Station in excess of the Applicable Limit;
 - (b) following a review under clause 6.3, and taking into account the results of that review, if the Minister is satisfied that the continued operation of the Port Lincoln Power Station is not consistent with the objects of the Environment Protection Act;
 - (c) if the Minister is satisfied that, contrary to clause 4.1, Synergen has not taken reasonable and practical measures in respect of the Port Lincoln Power Station for the purpose of seeking to achieve compliance as soon as possible during the term of this Agreement with the NO_x emission limits (if any) set out in the Air Quality Policy;
 - (d) if the Minister is satisfied that, contrary to clause 4.2, Synergen has not taken all reasonable and practical measures to avoid or minimise the risk of Environmental Harm as a result of the operation of the Port Lincoln Power Station and to improve the environmental performance of the Port Lincoln Power Station;

Environmental Compliance Agreement

- (e) Synergen fails to comply with, and undertake the environmental improvements set out in, the Environment Improvement Program attached as schedule 1 to this Agreement;
 - (f) as part of any major refurbishment or upgrade of the Port Lincoln Power Station which is undertaken by Synergen, Synergen could take reasonable and practical measures to use equipment and introduce combustion and operating conditions or operating procedures which would achieve compliance with the NO_x emission limits (if any) set out in the Air Quality Policy but Synergen fails to do so;
 - (g) Synergen ceases to hold a valid EPA Licence for the Port Lincoln Power Station as a result of its cancellation, revocation or termination;
 - (h) Synergen fails to pay the fee set out in clause 8 within 30 days of the Minister demanding payment of that fee once it has become due; or
 - (i) there has been any other material breach of this Agreement by Synergen.
- 7.2 (a) Subject to clause 7.2(b), this Agreement may not be terminated pursuant to clause 7.1 unless the Minister has first given:
- (i) 60 days notice in writing to Synergen that the Minister proposes to terminate this Agreement, together with reasons for that proposed termination; and
 - (ii) an opportunity to Synergen to make written submissions to the Minister as to why this Agreement should not be so terminated, such submissions to be made within 28 days of the notice referred to in clause 7.2(a)(i) being sent to Synergen.
- (b) If, after seeking the opinion of the EPA in light of any such submissions made by Synergen, the Minister has not withdrawn a notice given pursuant to clause 7.2(a) prior to the expiry of the 60 day period referred to in that clause, the Minister may terminate this Agreement by giving a further notice in writing to Synergen.
- 7.3 Synergen may terminate this Agreement at any time by notice in writing to the Minister.

8. Fee

On 31 October in each year, Synergen will pay an annual fee to the Minister of 100 fee units (as defined in the Environment Protection Act) as a contribution towards the costs of the EPA in administering this Agreement.

Environmental Compliance Agreement

EXECUTED in Adelaide, South Australia.

THE COMMON SEAL of THE MINISTER
FOR ENVIRONMENT AND HERITAGE OF
THE STATE OF SOUTH AUSTRALIA)

was duly affixed in the presence of:)

[Handwritten signature]

Witness

Lian Tyler-Ross

Print Name LIAN TYLER-ROSS



SIGNED for and on behalf of)

NATIONAL POWER SYNERGEN PTY LTD)

by its duly authorised attorney under a power of
attorney dated *10th MAY* 2000.)

in the presence of)

[Handwritten signature]

Signature of Witness

E. Metcalfe

Signature of Attorney

MICHAEL WM PARKER

Name of Witness (block letters)

EDWARD METCALFE

Name of Attorney (block letters)

The terms of this Agreement are hereby approved prior to execution by the
Environment Protection Authority this *5th* day of *July* 2000.

[Handwritten signature]

Environment Protection Authority

Authorised Delegate

Environmental Compliance Agreement

SCHEDULE 1

ENVIRONMENT IMPROVEMENT PROGRAM

1. **Monitoring and Modelling of Environmental Impacts**

1.1 In addition to the monitoring required by clause 4.5 of the Environmental Compliance Agreement, Synergen, in order to provide information as to the impact of the Port Lincoln Power Station on the environment and as to the effectiveness of the measures to limit the impact of the Port Lincoln Power Station it has undertaken as required by the Environmental Compliance Agreement, will:

- (a) carry out the monitoring program required by clause 4.5 of the Environmental Compliance Agreement not only at a downwind location but also at three other monitoring points so as to provide a 360° picture of its impact;
- (b) every two years carry out actual sampling of the stack emissions discharges produced by the Port Lincoln Power Station;
- (c) ensure that all monitoring of NO_x emissions carried out under paragraphs 1.1 (a) or (b) above is conducted by independent third party contractors;
- (d) provide a report to the EPA within two months of the monitoring being carried out detailing the results of the monitoring program so carried out.

1.2 Every two years Synergen will:

- (a) use the sampling results referred to in paragraph 1.1 (b) to model the plume of discharges from the Port Lincoln Power Station (using the Ausplume 4 modelling technique or its equivalent);
- (b) correlate the days that the Port Lincoln Power Station operates with the predictions of the model;
- (c) provide to the EPA (within three months of completing the plume modelling) a report setting out:
 - (i) the results of the modelling;
 - (ii) the predicted ground level concentrations based on the actual days of operation correlated with the predictions of the model;
 - (iii) a comparison of these ground level concentrations and applicable standards;
 - (iv) the electricity market factors responsible for the operation of the Port Lincoln Power Station on particular days.

2. **Community Consultation**

Synergen will hold an annual community consultation meeting to discuss any matters that members of the public wish to raise in respect of the environmental aspects of the operations of the Port Lincoln Power Station.

3. **Environmental Management System**

- 3.1 Synergen will carry out an independent annual environmental audit of the operations of the Port Lincoln Power Station.
- 3.2 Synergen will carry out an independent environmental audit of the adequacy of its environmental management system relating to the Port Lincoln Power Station on a biennial basis.
- 3.3 Synergen will regularly inspect the site of the Port Lincoln Power Station to ensure that it is free of litter, rubbish or other debris.
- 3.4 Synergen will regularly inspect the site of the Port Lincoln Power Station to ensure that all materials and wastes at the site which have the potential to pollute the environment are properly stored and contained.
4. **Contaminated Site Assessment**

By 2008, Synergen will carry out a contaminated site assessment and (if necessary) will have cleaned up any contamination that poses a material risk to health, safety or the environment.
5. **Implementation Reports**
 - 5.1 Synergen will provide an annual report to the EPA that:
 - (a) indicates any emissions from the Port Lincoln Power Station during the year to which the report relates that exceeded the Air Quality Policy; and
 - (b) details the measures that have been undertaken during the year to which the report relates pursuant to this Environmental Improvement Program.
6. **Other Environmental Improvements**
 - 6.1 Synergen will maintain documented records of fuel deliveries to, and storage and use at, the Port Lincoln Power Station.
 - 6.2 Synergen will undertake regular monitoring of stormwater control systems at the Port Lincoln Power Station.
 - 6.3 Synergen will undertake regular amenity inspections of the site of the Port Lincoln Power Station and ensure that landscaping and buildings are maintained in a proper manner.

Environmental Compliance Agreement

**THE MINISTER FOR ENVIRONMENT AND
HERITAGE**

And

**NATIONAL POWER SYNERGEN PTY LTD
(ACN 092 560 819)**

SNUGGERY POWER STATION

**Made pursuant to Clause 5 of Schedule 1 to the Electricity
Corporations (Restructuring and Disposal) Act 1999 (SA)**

Environmental Compliance Agreement

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Environmental Compliance Agreement

Date	
Parties	<ol style="list-style-type: none"> 1. THE MINISTER FOR ENVIRONMENT AND HERITAGE, being the Minister to whom the administration of the Environment Protection Act 1993 (SA) is committed (<i>Minister</i>); 2. NATIONAL POWER SYNERGEN PTY LTD (ACN 092 560 819) (<i>Synergen</i>).
Recitals	<p>A Synergen is the holder of a Specially Issued Licence which authorises the generation of electricity at the Snuggery Power Station.</p> <p>B Clause 5 of Schedule 1 to the Restructuring and Disposal Act permits an agreement to be made between the Minister and the holder of a Specially Issued Licence requiring the licensee to undertake programs directed towards reducing the adverse effects on the environment of the operations authorised by the licence and containing provisions dealing with and limiting the licensee's environmental protection obligations in relation to those operations. It is a precondition to the making of such an agreement that the EPA approves the terms of the agreement.</p> <p>C This Agreement, the terms of which have been approved by the EPA, is made between the Minister and Synergen pursuant to Clause 5 of Schedule 1 to the Restructuring and Disposal Act.</p> <p>D In accordance with Clause 5 of Schedule 1 to the Restructuring and Disposal Act, this Agreement is binding on, and operates for the benefit of, Synergen, successive holders of the Specially Issued Licence referred to in Recital A and any person who holds some subsequently granted licence under the Electricity Act 1996 (SA) which authorises the operations to which this Agreement relates.</p> <p>E Also in accordance with Clause 5 of Schedule 1 to the Restructuring and Disposal Act, this Agreement prevails to the extent of any inconsistency between this Agreement, on the one hand, and the Environment Protection Act or any statutory instrument under that Act, on the other hand.</p> <p>F This Agreement replaces Exemption No. 11739, dated 28 May 1999, which has been granted by the EPA in relation to the Snuggery Power Station under section 37 of the Environment Protection Act.</p>

Environmental Compliance Agreement

It is agreed as follows.

1. Definitions and Interpretations

1.1 Definitions

The following definitions apply unless the context requires otherwise.

Air Quality Policy means the Environment Protection (Air Quality) Policy 1994 authorised under Part 5 of the Environment Protection Act and any amendment to it or any replacement or new policies which deal with air emissions.

Applicable Limit means the lesser of the concentrations referred to in clause 3.1.

Emergency Demand means a period during which electricity generation by the Licensee is necessary to satisfy demand, as required by the National Electricity Market Management Company (NEMMCO), as a consequence of a shortfall of electricity caused by an unplanned outage or un-availability of another electricity generator or transmission asset.

Environmental Harm and *Material Environmental Harm* have the meanings ascribed to them under Section 5 of the Environment Protection Act.

Environment Protection Act means the Environment Protection Act 1993 (SA).

EPA means the Environment Protection Authority established under Part 3 of Division 1 of the Environment Protection Act.

EPA Licence means any environmental authorisation granted by the EPA under section 36 of the Environment Protection Act in relation to the Snuggery Power Station which is in force from time to time during the term of this Agreement (and, as at the date of this Agreement, means Licence No. 11526 dated 9 April 1999).

Operating Intermittently means non continuous electricity generation, as required by NEMMCO, but not due to Emergency Demand or Peak Load, and not base load generation (which is continuous electricity generation for 24 hours per day every day excepting times of planned or unplanned maintenance or repairs).

Peak Load means a period during which electricity generation by the Licensee is necessary to satisfy NEMMCO requirements regarding a short term period of high electricity demand not capable of being met by other generators.

NO_x means oxides of nitrogen.

reasonable and practical measures are measures which the EPA decides in its discretion are appropriate having regard to section 25(2) of, and other matters specified in, the Environment Protection Act, and having regard to

Environmental Compliance Agreement

the cost of such measures (including the cost of new equipment and recurrent operating costs) relative to the capital value and estimated residual life of the Snuggery Power Station and its operating costs.

Restructuring and Disposal Act means the Electricity Corporations (Restructuring and Disposal) Act 1999 (SA).

Snuggery Power Station means the power station (as altered from time to time) which is located at Lot 2, Hundred of Mayurra, Millicent, South Australia 5280.

Specially Issued Licence has the meaning ascribed to it under Section 3(1) of the Restructuring and Disposal Act.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural and the converse.
- (b) A reference to a clause or schedule is a reference to a clause of, or schedule to, this Agreement.
- (c) A reference to an agreement or document (including, without limitation, any reference to this Agreement) is to the agreement or document as amended, varied, supplemented, novated or replaced.
- (d) A reference to any Act or statutory instrument or particular provision of an Act or statutory instrument is taken to include:
 - (i) all regulations, orders or instruments issued under the Act, statutory instrument or provision;
 - (ii) any modification, consolidation, amendment, re-enactment, replacement or codification of the Act, statutory instrument or provision; and
 - (iii) any substituted Act or statutory instrument or substituted provision.
- (e) A reference to *writing* includes a facsimile transmission and any means of reproducing words in a tangible and permanently visible form.

1.3 EPA Licence

Nothing in this Agreement is to be construed as amending, modifying or replacing an EPA Licence except to the extent of any inconsistency between this Agreement and that EPA Licence, in which case this Agreement will prevail to the extent of that inconsistency.

2. Duration of Agreement

Subject to clause 7, this Agreement will take effect on the date of execution and will expire on 31 December 2020.

Environmental Compliance Agreement

3. Authorised NO_x Emission Levels

3.1 Subject to clause 3.2 and notwithstanding the Air Quality Policy, Synergen is authorised to discharge NO_x emissions at a concentration that exceeds the lesser of:

- (a) 150 milligrams per cubic metre (150mg/Nm³) in the residual gases, after completion of any process and before admixture with air, smoke, or other gases, from the gas turbine exhaust stack for the Snuggery Power Station; and
- (b) the maximum pollution level (if any) that would otherwise be permitted in relation to the Snuggery Power Station under the Air Quality Policy,

where the Snuggery Power Station is generating electrical energy during periods of Peak Load or Emergency Demand or is Operating Intermittently. During all other periods, Synergen must operate the Snuggery Power Station in compliance with the NO_x emission limits in the Air Quality Policy.

3.2 Notwithstanding clause 3.1, Synergen is not authorised to discharge NO_x emissions in excess of 350mg/Nm³, except for stack 4 which is authorised to discharge up to a limit of 500mg/Nm³, in the residual gases after completion of any process and before admixture with air, smoke, or other gases, from the gas turbine exhaust stack for the Snuggery Power Station or any unit thereof.

3.3 For the purposes of clauses 3.1 and 3.2 NO_x emissions may be estimated using historical data demonstrating the relationship between the emission of NO_x and the output of the Snuggery Power Station rather than actual physical sampling.

4. Synergen Obligations

4.1 Synergen will, in respect of the Snuggery Power Station, take reasonable and practical measures for the purpose of seeking to achieve compliance as soon as possible during the term of this Agreement with the NO_x emission limits (if any) set out in the Air Quality Policy, including but not limited to:

- (a) making modifications to equipment design and changes to combustion and operating conditions; and
- (b) implementing other actions in relation to reducing emissions of NO_x (including the installation of air pollution control equipment and changes to operating procedures).

4.2 Subject to clauses 3 and 4.1, Synergen will take all reasonable and practical measures to avoid or minimise the risk of Environmental Harm as a result of the operation of the Snuggery Power Station and to improve the environmental performance of the Snuggery Power Station.

4.3 Without in any way limiting Synergen's obligations under clauses 4.1 and 4.2, Synergen will comply with, and undertake the environmental improvements set out in, the Environment Improvement Program attached as schedule 1 to this Agreement, such program being directed towards reducing the adverse

Environmental Compliance Agreement

effects on the environment of the operations authorised by the Specially Issued Licence held by Synergen.

- 4.4 Prior to 31 October in each year, Synergen will provide to the EPA a report outlining the actions which Synergen has taken for the purposes of clauses 4.1, 4.2 and 4.3 in the 12 months up to 30 September in that year.
- 4.5 Synergen will conduct a monitoring program which is approved by the EPA to measure the ground level concentration of nitrogen dioxide from the exhaust of the Snuggery Power Station. These measurements will be taken during 1 November to 31 March of each year, at a location not less than 50 metres from the gas turbine chimney for the Snuggery Power Station in the downwind direction, predominantly during the summer season. Such measurements may be undertaken using passive sampling devices to provide weekly average concentrations of nitrogen dioxide.
- 4.6 Prior to 31 October in each year, Synergen will lodge an annual report with the EPA which contains, in respect of the Snuggery Power Station, information derived from the monitoring required to be undertaken pursuant to this Agreement on the number of occasions, duration of each occasion and total time during the 12 months up to 30 September in that year during which NO_x emissions from the gas turbine exhaust stack for the Snuggery Power Station were in excess of the Applicable Limit.
- 4.7 Within 6 months of the date of this Agreement Synergen will prepare, to the satisfaction of the EPA, a plan of action to be taken in the event of emergencies that might foreseeably arise out of the operation of the Snuggery Power Station that might involve the risk of Environmental Harm.

For these purposes the EPA may:

- (a) specify the inquiries to be made prior to the preparation of the plan; and
- (b) specify the qualifications of the person who may be appointed or engaged by Synergen to conduct the inquiries and prepare the plan.

If so required by the EPA, Synergen will publish the approved plan or an outline of the plan in a manner specified by the EPA.

5. Breach

If Synergen breaches clause 3.1 or 3.2 of this Agreement in relation to the Snuggery Power Station then, to the extent that breach would (but for this Agreement) result in Synergen contravening the Environment Protection Act or any statutory instrument under it or being liable under any Act or at law, Synergen will be liable for that contravention or will be liable under that Act or at law as if clause 3.1 or 3.2 (as the case may be) did not apply in relation to the Snuggery Power Station.

Environmental Compliance Agreement

6. Review and Amendment

- 6.1 This Agreement can be amended at any time by agreement between Synergen and the EPA in accordance with Clause 5(7) of Schedule 1 to the Restructuring and Disposal Act.
- 6.2 The EPA (with the approval of the Minister) may at any time amend this Agreement consistent with its obligations and powers under the Environment Protection Act and in particular Section 45 (3) (b) (ii) thereof, to impose such further or altered obligations on Synergen in relation to the Snuggery Power Station as the EPA considers necessary or desirable to ensure that the objects of the Environment Protection Act are met and, for the purposes of Clause 5(7) of Schedule 1 to the Restructuring and Disposal Act, Synergen hereby consents to the amendment of this Agreement (other than the amendment of clauses 2, 3, or 4.1) in accordance with any such amendments, such amendments to be published in accordance with Clause 5(8) of Schedule 1 to the Restructuring and Disposal Act.
- 6.3 Within the three months prior to each of 31 December 2008, 31 December 2012 and 31 December 2016, the Minister will request the EPA to conduct a review, in consultation with Synergen, to determine whether the continued operation of the Snuggery Power Station is consistent with the objects of the Environment Protection Act. Synergen will provide to the EPA such information as the EPA requests for the purpose of conducting this review. The EPA will report the results of this review to the Minister.

7. Termination

- 7.1 Subject to clause 7.2, the Minister may terminate this Agreement by notice in writing to Synergen:
- (a) if the Minister is satisfied that Material Environmental Harm has been caused by the emission of NO_x from the Snuggery Power Station in excess of the Applicable Limit;
 - (b) following a review under clause 6.3, and taking into account the results of that review, if the Minister is satisfied that the continued operation of the Snuggery Power Station is not consistent with the objects of the Environment Protection Act;
 - (c) if the Minister is satisfied that, contrary to clause 4.1, Synergen has not taken reasonable and practical measures in respect of the Snuggery Power Station for the purpose of seeking to achieve compliance as soon as possible during the term of this Agreement with the NO_x emission limits (if any) set out in the Air Quality Policy;
 - (d) if the Minister is satisfied that, contrary to clause 4.2, Synergen has not taken all reasonable and practical measures to avoid or minimise the risk of Environmental Harm as a result of the operation of the Snuggery Power Station and to improve the environmental performance of the Snuggery Power Station;

Environmental Compliance Agreement

- (e) Synergen fails to comply with, and undertake the environmental improvements set out in, the Environment Improvement Program attached as schedule 1 to this Agreement;
 - (f) as part of any major refurbishment or upgrade of the Snuggery Power Station which is undertaken by Synergen, Synergen could take reasonable and practical measures to use equipment and introduce combustion and operating conditions or operating procedures which would achieve compliance with the NO_x emission limits (if any) set out in the Air Quality Policy but Synergen fails to do so;
 - (g) Synergen ceases to hold a valid EPA Licence for the Snuggery Power Station as a result of its cancellation, revocation or termination;
 - (h) Synergen fails to pay the fee set out in clause 8 within 30 days of the Minister demanding payment of that fee once it has become due; or
 - (i) there has been any other material breach of this Agreement by Synergen.
- 7.2 (a) Subject to clause 7.2(b), this Agreement may not be terminated pursuant to clause 7.1 unless the Minister has first given:
- (i) 60 days notice in writing to Synergen that the Minister proposes to terminate this Agreement, together with reasons for that proposed termination; and
 - (ii) an opportunity to Synergen to make written submissions to the Minister as to why this Agreement should not be so terminated, such submissions to be made within 28 days of the notice referred to in clause 7.2(a)(i) being sent to Synergen.
- (b) If, after seeking the opinion of the EPA in light of any such submissions made by Synergen, the Minister has not withdrawn a notice given pursuant to clause 7.2(a) prior to the expiry of the 60 day period referred to in that clause, the Minister may terminate this Agreement by giving a further notice in writing to Synergen.
- 7.3 Synergen may terminate this Agreement at any time by notice in writing to the Minister.

8. Fee

On 31 October in each year, Synergen will pay an annual fee to the Minister of 100 fee units (as defined in the Environment Protection Act) as a contribution towards the costs of the EPA in administering this Agreement.

Environmental Compliance Agreement

EXECUTED in Adelaide, South Australia.

THE COMMON SEAL of THE MINISTER)
FOR ENVIRONMENT AND HERITAGE OF)
THE STATE OF SOUTH AUSTRALIA)

was duly affixed in the presence of:)



[Handwritten signature])
_____)

Witness

[Handwritten signature: Liam Tyler-Ross]

Print Name LIAM TYLER-ROSS

SIGNED for and on behalf of)
NATIONAL POWER SYNERGEN PTY LTD)
by its duly authorised attorney under a power of)
attorney dated ... 10th MAY ... 2000.)

in the presence of)

[Handwritten signature])
.....)

Signature of Witness)

E. Metcalfe)
.....)

Signature of Attorney)

MICHAEL W H PARKER)
.....)

Name of Witness (block letters))

EDWARD METCALFE)
.....)

Name of Attorney (block letters)

The terms of this Agreement are hereby approved prior to execution by the)
Environment Protection Authority this 5th day of July 2000.)

[Handwritten signature])
.....)

Environment Protection Authority

Authorised Delegate

Environmental Compliance Agreement

SCHEDULE 1

ENVIRONMENT IMPROVEMENT PROGRAM

Environmental Improvement Program – Snuggery Power Station

1. Monitoring and Modelling of Environmental Impacts

1.1 In addition to the monitoring required by clause 4.5 of the Environmental Compliance Agreement, Synergen, in order to provide information as to the impact of the Snuggery Power Station on the environment and as to the effectiveness of the measures to limit the impact of the Snuggery Power Station it has undertaken as required by the Environmental Compliance Agreement, will:

- (a) carry out the monitoring program required by clause 4.5 of the Environmental Compliance Agreement not only at a downwind location but also at three other monitoring points so as to provide a 360° picture of its impact;
- (b) every two years carry out actual sampling of the stack emissions discharges produced by the Snuggery Power Station;
- (c) ensure that all monitoring of NO_x emissions carried out under paragraphs 1.1 (a) or (b) above is conducted by independent third party contractors;
- (d) provide a report to the EPA within two months of the monitoring being carried out detailing the results of the monitoring program so carried out.

1.2 Every two years Synergen will:

- (a) use the sampling results referred to in paragraph 1.1 (b) to model the plume of discharges from the Snuggery Power Station (using the Ausplume 4 modelling technique or its equivalent);
- (b) correlate the days that the Snuggery Power Station operates with the predictions of the model;
- (c) provide to the EPA (within three months of completing the plume modelling) a report setting out:
 - (i) the results of the modelling;
 - (ii) the predicted ground level concentrations based on the actual days of operation correlated with the predictions of the model;
 - (iii) a comparison of these ground level concentrations and applicable standards;
 - (iv) the electricity market factors responsible for the operation of the Snuggery Power Station on particular days.

2. Community Consultation

Synergen will hold an annual community consultation meeting to discuss any matters that members of the public wish to raise in respect of the environmental aspects of the operations of the Snuggery Power Station.

3. Environmental Management System

3.1 Synergen will carry out an independent annual environmental audit of the operations of the Snuggery Power Station.

3.2 Synergen will carry out an independent environmental audit of the adequacy of its environmental management system relating to the Snuggery Power Station on a biennial basis.

-
- 3.3 Synergen will regularly inspect the site of the Snuggery Power Station to ensure that it is free of litter, rubbish or other debris.
- 3.4 Synergen will regularly inspect the site of the Snuggery Power Station to ensure that all materials and wastes at the site which have the potential to pollute the environment are properly stored and contained.
4. **Contaminated Site Assessment**
By 2008, Synergen will carry out a contaminated site assessment and (if necessary) will have cleaned up any contamination that poses a material risk to health, safety or the environment.
5. **Implementation Reports**
- 5.1 Synergen will provide an annual report to the EPA that:
- (a) indicates any emissions from the Snuggery Power Station during the year to which the report relates that exceeded the Air Quality Policy; and
 - (b) details the measures that have been undertaken during the year to which the report relates pursuant to this Environmental Improvement Program.
6. **Other Environmental Improvements**
- 6.1 Synergen will maintain documented records of fuel deliveries to, and storage and use at, the Snuggery Power Station.
- 6.2 Synergen will undertake regular monitoring of stormwater control systems at the Snuggery Power Station.
- 6.3 Synergen will undertake regular amenity inspections of the site of the Snuggery Power Station and ensure that landscaping and buildings are maintained in a proper manner.

Environment Compliance Agreement

The Minister for Environment and Heritage

and

Flinders

Freehills

Central Plaza 1 345 Queen Street Brisbane QLD 4000 Australia
Telephone 61 7 3258 6666 Facsimile 61 7 3258 6444
www.freehills.com.au DX255 Brisbane

SYDNEY MELBOURNE PERTH CANBERRA BRISBANE HANOI HO CHI MINH CITY
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approved under the Professional Standards Act 1994 (NSW)

Reference KJH:2165375

This agreement

is made on 20th September 2000 between the following parties:

1. **The Minister for Environment and Heritage,**
being the Minister to whom the administration of the Environment Protection Act 1993 (SA) is committed,
acting for and on behalf of the Crown in right of the State of South Australia
(Minister)
2. **NRGenerating Holdings (No 2) GmbH**
ARBN 094 284 723
a company incorporated under the laws of the Grand Duchy of Luxembourg and having its registered office at Steinackerstrasse 9, 8700 Kunsnacht, Switzerland and having its Australian registered office at Level 22, 307 Queen Street, Brisbane in the State of Queensland
3. **Flinders Labuan (No 1) Limited**
ARBN 094 284 812
a company incorporated under the laws of Malaysia and having its registered office at Unit Level 13(E) - Main Office Tower, Financial Park Labuan, Jalan Merdeka, 87000, Federal Territory of Labuan and its Australian registered office at Level 22, 307 Queen Street, Brisbane in the State of Queensland
4. **Flinders Labuan (No 2) Limited**
ARBN 094 284 769
a company incorporated under the laws of Malaysia and having its registered office at Unit Level 13(E) - Main Office Tower, Financial Park Labuan, Jalan Merdeka, 87000, Federal Territory of Labuan and its Australian registered office at Level 22, 307 Queen Street, Brisbane in the State of Queensland
5. **NRG Flinders Operating Services Pty Ltd**
ACN 094 130 837
a company incorporated under the laws of Australia and having its registered office at Level 22, 307 Queen Street, Brisbane in the State of Queensland
(Collectively Flinders)

Recitals

- A. Flinders is the holder of a Specially Issued Licence which authorises the generation of electricity at the Augusta Power Stations.
- B. Clause 5 of Schedule 1 to the Restructuring and Disposal Act permits an agreement to be made between the Minister and the holder of a Specially Issued Licence requiring the licensee to undertake programs directed towards reducing the adverse effects on the environment of the operations authorised by the licence and containing provisions dealing with and limiting the licensee's environmental protection obligations in relation to those operations. It is a precondition to the making of such an agreement that the EPA approves the terms of the agreement.

- C. The Minister acknowledges that the programs set out in clause 4 are programs directed towards reducing the adverse effects on the environment of the operations authorised by the Specially Issued Licence referred to in Recital A.
- D. This Agreement, the terms of which have been approved by the EPA, is made between the Minister and Flinders pursuant to Clause 5 of Schedule 1 to the Restructuring and Disposal Act.
- E. In accordance with Clause 5 of Schedule 1 to the Restructuring and Disposal Act, this Agreement is binding on, and operates for the benefit of Flinders, successive holders of the Specially Issued Licence referred to in Recital A and any person who holds some subsequently granted licence under the Electricity Act 1996 (SA) which authorises the Operations to which this Agreement relates as set out in clause 2.
- F. Also in accordance with Clause 5 of Schedule 1 to the Restructuring and Disposal Act, this Agreement prevails to the extent of any inconsistency between this Agreement, on the one hand, and the Environment Protection Act or any statutory instrument under that Act, on the other hand.

The parties agree

in consideration of, among other things, the mutual promises contained in this agreement:

1 Definitions and Interpretations

1.1 Definitions

The following definitions apply unless the context requires otherwise.

Air Quality Policy means the Environment Protection (Air Quality) Policy 1994 authorised under Part 5 of the Environment Protection Act and any amendment to it or any replacement or new policies which deal with air emissions.

Ash Pond means the pond area within the Augusta Land at the date of this Agreement used for the disposal of ash produced in the process of power generation at the Augusta Power Stations.

Augusta Land means all land at Port Augusta owned, used or occupied by Flinders in connection with the operation of the Augusta Power Stations including but not limited to the land described as Lots 1, 2, 4 and 6 on Plan of Division Sections 1245 and 1246 in the Hundred of Davenport Area of Port Augusta being part of the land formerly contained in Certificate of Title Register Book Volume 5735 Folio 328.

Augusta Power Stations means the Northern and Playford power stations (including any redevelopment from time to time).

Closure Plan means the plan entitled "Flinders Power APS Ash Storage Area End of Life Plan Draft Cost Estimate" dated 14 February 2000 for the closure of the Ash Pond to be implemented so as to result in the capping and revegetation; that

capping and revegetation of the Ash Pond must prevent wind borne dust to the reasonable satisfaction of the EPA.

Criteria means the cost of measures (including the cost of new equipment and recurrent operating costs), the capital value of the Augusta Power Stations and the operating costs of the Augusta Power Stations.

Cubic metre and Nm³ means a cubic metre of gas at 0°C and 101.3kPa.

Due Date means the date for making a payment referred to in clause 9 stipulated by:

- (a) a court;
- (b) any legislation, regulation or subordinate legislation; or
- (c) the EPA.

EIP means the Environment Improvement Program for Northern a copy of which is attached to this Agreement in Schedule 1.

Environmental Harm and Material Environmental Harm and Serious Environmental Harm have the meanings ascribed to them at the date of this Agreement under Section 5 of the Environment Protection Act.

Environment Protection Act means the Environment Protection Act 1993 (SA).

EPA means the Environment Protection Authority and any successor body established under Part 3 of Division 1 of the Environment Protection Act.

EPA Licences means the Northern Environmental Licence and the Playford Environmental Licence.

Exemptions means any environmental exemption granted by the EPA under Section 37 of the Environment Protection Act with respect to the Augusta Power Stations (or either of them) which is in force from time to time during the term of this Agreement, and, as at the date of this Agreement, means:

- (a) for Northern, Exemption No. 11978 dated 8 June 1999; and
- (b) for Playford, Exemption No. 10711 dated 13 July 1999.

Existing Site Contamination means Site Contamination existing at the date of this Agreement on the Augusta Land referred to in the report to ERSU dated June 2000 prepared by Burns and Roe Worley Pty Ltd entitled "Flinders Power Land Contamination Issues Independent Review" and the location of which is identified in the report entitled "Contaminated Lands Identification, Management and Liability Assessment" dated 17 February 2000.

Flinders means each of the parties 2 to 5 inclusive whose names appear on page 1 of this Agreement, jointly and each of them severally and includes any successor or assign referred to in clause 8.

Gazettal Period means the period commencing 1 month after and ending 4 months after the date of execution by the parties of this Agreement or, where relevant, the date of any variation of this Agreement under clause 6.1.

Ground NO₂ Limit means 70% of the standard contained in the National Environment Protection Measure for Ambient Air Quality for nitrogen dioxide from time to time in force, and as at the date of this agreement, means the

National Environment Protection Measure for Ambient Air Quality for nitrogen dioxide as at June 1998.

Improvement Date means the later to occur of:

- (a) 18 months after the date of service by the EPA of a notice under clause 4.2; and
- (b) the next Planned Outage Date.

Marine Environment Goal means that, measured at the mid Gulf monitoring point 100 metres from the point where Hospital Creek enters Spencer Gulf, the chronic criteria in Table 1 - Acceptable Concentrations of Toxicants for Marine and Estuarine Waters in the Environment Protection (Marine) Policy in force as at the date of this Agreement is not exceeded on more than four days in every three years and there is no exceedance of the acute criteria in that Table.

Northern means the power station known as "Northern" located on the Augusta Land.

Northern Environmental Licence means any environmental authorisation granted by the EPA under section 36 of the Environment Protection Act in relation to Northern which is in force from time to time during the term of this Agreement (and, as at the date of this Agreement, means Licence No. 11977 dated 8 June 1999).

Northern Particles Air Limit means that, at Northern, concentrations of all particulates does not exceed 150 mg/Nm^3 (referenced to 12% by volume of carbon dioxide) measured in accordance with clause 6 of the Air Quality Policy as at the date of this Agreement.

Northern Thermal Standard means that, at Northern, the average weekly temperature rise across all operating units measured at the condensers under normal operating conditions with 2 pumps operating does not exceed 8 degrees C;

NOx means oxides of nitrogen.

Plant Design Limits means:

- (a) for Northern, the NOx emissions concentration in Clause 3.1; and
- (b) for Playford, the NOx emissions concentration in Clause 3.2.

Planned Outage Date means the respective dates when Flinders has planned for major plant shut down for scheduled maintenance for each of Unit 1 and Unit 2 at Northern, being respective intervals of not more than 4 years.

Playford means the power station known as "Playford B" located on the Augusta Land.

Playford Acceptable Thermal Standard means that at Playford the average weekly temperature rise measured as the difference between the surface temperatures within the cooling water intake coffer dams and the surface/ near surface water temperature measured 40m west of the operating discharge point under normal operating conditions with all pumps operating does not exceed 8 degrees C.

Playford Environmental Licence means any environmental authorisation granted by the EPA under section 36 of the Environment Protection Act in relation

to Playford which is in force from time to time during the term of this Agreement (and, as at the date of this Agreement, means Licence No. 10712 dated 13 July 1999).

Restructuring and Disposal Act means the Electricity Corporations (Restructuring and Disposal) Act 1999 (SA).

Site Contamination means the condition of a site where any chemical substance or waste is present above background concentrations, and represents, or potentially represents, harm to human health or the environment, at the site or any other site.

Specially Issued Licence has the meaning ascribed to it under Section 3(1) of the Restructuring and Disposal Act.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply:

- (a) The singular includes the plural and the converse.
- (b) Unless the context requires otherwise a reference to a clause or schedule is a reference to a clause of, or schedule to, this Agreement.
- (c) A reference to an agreement or document (including, without limitation, any reference to this Agreement) is to the agreement or document as amended, varied, supplemented, novated or replaced.
- (d) A reference to any Act or statutory instrument or particular provision of an Act or statutory instrument is taken to include:
 - (1) all regulations, orders or instruments issued under the Act, statutory instrument or provision;
 - (2) any modification, consolidation, amendment, re-enactment, replacement or codification of the Act, statutory instrument or provision; and
 - (3) unless the context requires otherwise, any substituted Act or statutory instrument or substituted provision.
- (e) Despite clause 1.2(d), unless it is expressly stipulated in this Agreement to the contrary, a reference in this Agreement to a policy, standard, goal, limit or measure ("standard") is a reference to the standard specifically mentioned and not to any modification, consolidation, amendment, re-enactment, replacement or codification of that standard.
- (f) A reference to dollars and \$ is a reference to Australian currency.
- (g) A reference to *writing* includes a facsimile transmission and any means of reproducing words in a tangible and permanently visible form.
- (h) When interpreting this Agreement or the Environment Protection Act, references to "related bodies corporate" are to be read only as references to each of the entities comprising Flinders from time to time.
- (i) If any provision of this Agreement is for any reason acknowledged by the parties, or adjudged by a court or held or rendered by any competent

government authority to be invalid, illegal or unenforceable, such provision shall be severed from the remainder of the Agreement and the remainder of the Agreement shall subsist and remain in full force and effect unless the basic purpose of this Agreement would be defeated.

1.3 EPA Licence

- (a) Any rights of Flinders under this Agreement are in addition to and do not in any way derogate from rights derived from the EPA Licences and Exemptions.
- (b) Nothing in this Agreement is to be construed as amending, modifying or replacing the EPA Licences or Exemptions except to the extent of any inconsistency between this Agreement and the EPA Licences or Exemptions, in which case this Agreement will prevail to the extent of that inconsistency.
- (c) Where Flinders has an obligation to report on a matter both under this Agreement and under an EPA Licence or Exemption, Flinders is obliged to provide only one report. The report so provided shall be deemed to have been provided in compliance with both the obligation under this Agreement and the obligation under the EPA Licence or Exemption.

2 Duration of Agreement and Operations

2.1 Term of Agreement

This Agreement is entered into under and pursuant to clause 5 of Schedule 1 of the Restructuring and Disposal Act. It will take effect on the date of this Agreement and will, subject to clause 7, expire on 31 December 2025.

2.2 Authorised operations and impacts

For the purposes of Clause 5(4) of Schedule 1 of the Restructuring and Disposal Act the operations to which this Agreement relates are the operations authorised by the Specially Issued Licence.

2.3 Adverse Effects

Nothing in this Agreement is to be construed as specifically permitting any adverse effect on the environment for the purposes of clause 5(6) of Schedule 1 of the Restructuring and Disposal Act.

2.4 Defences

In any proceedings (whether criminal or civil and whether brought by the EPA or any other party) where it is alleged that Flinders has failed to comply with the duty under Section 25 of the Environment Protection Act by polluting the environment or that it has contravened Part 9 of the Environment Protection Act, it will be a defence if:

- (a) Flinders has complied with the authorities (including any maximum pollution levels) set out in clauses 3.1, 3.2 or 3.3(a) to (f) inclusive; and

- (b) Flinders did not, by so polluting the environment, breach those authorities (including by exceeding those maximum pollution levels).

3 Authorised Activities

3.1 Northern NOx

Despite the Environment Protection Act and the Air Quality Policy, for the duration of this Agreement Flinders is authorised to discharge NOx emissions from Northern:

- (a) at a concentration up to 1,000 milligrams per Cubic metre (1,000 mg/Nm³) (referenced to 7% by volume of oxygen) in the residual gases, after completion of any process and before admixture with air, smoke, or other gases, from the exhaust stack of units 1 and 2 for Northern;
- (b) during periods of up to 48 hours (or such further time as the EPA may approve in writing, in its absolute discretion and subject to such conditions as it thinks fit) when both or either of Unit 1 or Unit 2 of Northern are malfunctioning, at concentrations which are greater than 1,000 mg/Nm³ (referenced to 7% by volume of oxygen) but which do not exceed 1,200 milligrams per cubic metre (1,200 mg/Nm³) (referenced to 7% by volume of oxygen) in the residual gases, after completion of any process and before admixture with air, smoke, or other gases, from the exhaust stack for Units 1 and 2 of Northern

in each case measured using the criteria set out in clause 2.2 of Schedule 1.

3.2 Playford NOx

Despite the Environment Protection Act and the Air Quality Policy, for the duration of this Agreement Flinders is authorised whilst ever it holds a Playford Licence to discharge NOx emissions from Playford at a concentration up to 1,500 milligrams per Cubic metre (1,500mg/Nm³) (referenced to 7% by volume of oxygen) in the residual gases after completion of any process and before admixture with air, smoke or other gases from the exhaust stack for Playford, measured using the criteria set out in clause 2.2 of Schedule 1.

3.3 Other Activities

Despite anything to the contrary in the Environment Protection Act or any policy from time to time authorised under it, for the duration of this Agreement Flinders is:

- (a) authorised to discharge cooling water into the marine environment from Northern; the thermal load of such discharge must meet the Northern Thermal Standard;
- (b) authorised to discharge cooling water into the marine environment from Playford; the thermal load of such discharge must not be greater than Playford Acceptable Thermal Standard;

- (c) authorised to discharge particulates into the air from Northern; the concentration of particulate emissions must not be greater than the Northern Particles Air Limit;
- (d) subject to clause 3.6, required to ensure that the maximum ground level concentrations of nitrogen dioxide from emissions of NO_x from the Augusta Power Stations do not cause an exceedance of the Ground NO₂ Limit modelled as set out in clause 2.3 of Schedule 1;
- (e) authorised to operate and use the Ash Pond for the disposal of fly ash resulting from the combustion of coal at the Augusta Power Stations;
- (f) authorised to discharge ash slurry effluent from the Ash Pond into Hospital Creek; the discharge must meet the Marine Environment Goal; and
- (g) authorised to retain waste containing asbestos produced at the Augusta Land temporarily whilst awaiting transport to another place by persons licensed to transport waste containing asbestos off-site; retention of the waste containing asbestos must be undertaken in a manner which complies with the EPA's Technical Bulletin Number 1 and the Code of Practice for Asbestos Work (Excluding Asbestos Removal) in force from 1 April 1991 adopted under the Occupational Health and Safety Act 1986 (SA).

3.4 Existing Conditions

- (a) The parties further agree that whilst ever Flinders:
 - (1) uses the Augusta Land for the operations to which this Agreement relates (as referred to in clause 2.2); and
 - (2) does not commence any other significant use of the Augusta Land:
Flinders will not be obliged to:
 - (3) remediate the Ash Pond (other than in accordance with the Closure Plan) or take any clean-up action or remediate any Site Contamination caused by the disposal of fly ash in the Ash Pond; nor
 - (4) take any clean-up action or remediate any Existing Site Contamination, nor will Flinders be liable for the cost of any such remediation.
- (b) Despite clause 3.4(a):
 - (1) Flinders must continue to investigate and to take action to clean-up and/or remediate Existing Site Contamination in accordance with the recommendations contained in the two reports referred to in the definition of "Existing Site Contamination" in clause 1.1 of this Agreement regarding that Existing Site Contamination;
 - (2) Subject to clause 3.4(b)(3), Flinders may be required to remediate or take clean-up action in respect of Existing Site Contamination where the EPA is satisfied on reasonable grounds that there is Material or Serious Environmental Harm off the Augusta Land arising from that Existing Site Contamination;

- (3) Flinders may be obliged pursuant to clause 3.4(b)(2) to take clean-up action only to the extent that is necessary to prevent or minimise any Material or Serious Environmental Harm off the Augusta Land.
- (c) For the purposes of clause 3.4(a), a significant use of the Augusta Land is a use other than a use which is:
 - (1) authorised by the Specially Issued Licence; or
 - (2) incidental to the operations authorised by the Specially Issued Licence;
 - (3) at the date of this Agreement carried out on the Augusta Land; or
 - (4) agreed in writing by the EPA not to be a significant use.

3.5 Restoration of saline areas

Flinders is authorised to use fly ash produced in the process of power generation at the Augusta Power Stations to fill those areas of the Augusta Land as shown hatched on the plan in Schedule 2 for landscaping, restoration and/or control of low lying saline sites..

3.6 Changes in NEPM

- (a) If the standard contained in the National Environment Protection Measure for Ambient Air Quality for nitrogen dioxide is altered from that which applies at the date of this agreement and as a result the Ground NO₂ Limit changes, clause 3.6(b) applies.
- (b) If clause 3.6(a) applies, Flinders must on the next Planned Outage Date but not before 3 years after the date the change is adopted and having regard to the Criteria make such modifications to equipment design and such changes to operating procedures as proposed by Flinders and approved in writing by the EPA for the purpose of securing compliance with the Ground NO₂ Limit.

4 Flinders Obligations

4.1 Flinders' Programs

In compliance with clause 5.(1) of Schedule 1 of the Restructuring and Disposal Act, Flinders agrees that it will:

- (a) only operate the Augusta Power Stations in accordance with clauses 3.1, 3.2, 3.3, 3.5 and 3.6;
- (b) comply with the EIP;
- (c) pay to the Department of Environment and Heritage the sum of \$1,000,000 by 5 annual payments of \$200,000 each, the first of such payments to be made by 31 March 2001, and each subsequent payment to be made by 31 March in the year in question, such money to be used for a program to be undertaken by Flinders and approved in writing by the EPA and administered by the Department of Environment and Heritage to make

available to the people resident within the area of the Corporation of the City of Port Augusta for a term of 5 years a rebate towards the cost of implementing the benefits of solar power for their homes in Port Augusta.:

4.2 Augusta Operational Tests

If for any reason properly and reasonably attributable to the operation of the relevant Augusta Power Station(s) the:

- (a) Northern Thermal Standard; or
- (b) Playford Acceptable Thermal Standard; or
- (c) Northern Particles Air Limit; or
- (d) Ground NO₂ Limit; or
- (e) Marine Environment Goal,

is not achieved then the EPA may by written notice to Flinders require Flinders to implement the actions set out in clause 4.3 on the next Improvement Date.

4.3 Rectification Works at Augusta Power Stations

If clause 4.2 applies then the EPA may, having regard to the matters detailed in Section 25(2)(a), (b) and (c) of the Environment Protection Act and the Criteria, require that:

- (a) Flinders must on the next Improvement Date make such modifications to equipment design and such changes to operating procedures as proposed by Flinders and approved in writing by the EPA for the purpose of securing compliance with the:
 - (1) Northern Thermal Standard;
 - (2) Playford Acceptable Thermal Standard; or
 - (3) Northern Particles Air Limit; or
 - (4) Ground NO₂ Limit; or
 - (5) Marine Environment Goal,(whichever was not achieved under clause 4.2);
- (b) until the works contemplated by clause 4.3(a) have been completed, Flinders take, as soon as reasonably practicable, temporary measures which (having regard to the matters detailed in Section 25(2)(a), (b) and (c) of the Environment Protection Act and the Criteria) are proposed by Flinders and approved in writing by the EPA to secure compliance with the:
 - (1) Northern Thermal Standard;
 - (2) Playford Acceptable Thermal Standard; or
 - (3) Northern Particles Air Limit; or
 - (4) Ground NO₂ Limit; or
 - (5) Marine Environment Goal,(whichever was not achieved under clause 4.2).

5 Breach

5.1 Impact of Breach

If Flinders breaches clause 4.1(a) (a “**Statutory-Related Breach**”) then:

- (a) Flinders shall be liable for that breach under the Environmental Protection Act unless such breach is minor in nature; and
- (b) the EPA must, in pursuing any breach referred to in clause 5.1(a) itself have regard to - and bring to the attention of any other person imposing any fine, penalty, award, order, costs or other remedy for that breach - clause 5 of Schedule 1 to the Restructuring and Disposal Act and the terms of this Agreement.

6 Review and Amendment

6.1 Amendments

This Agreement can be varied at any time by written agreement between Flinders and the EPA.

6.2 Minister to be Bound

The Minister agrees to be bound by any variation under clause 6.1.

7 Termination

7.1 Contract-Related Breaches

A material breach by Flinders of its obligations under clause 4.1(b) or (c), clause 4.3 or clause 11.1 is a “**Contract-Related Breach**”. (To avoid any confusion, a Statutory-Related Breach does not constitute a Contract-Related Breach.)

7.2 Minister may Terminate

The Minister may terminate this Agreement by notice in writing to Flinders, if (and only if):

- (a) a Contract-Related Breach has occurred; and
- (b) the Minister has then given 60 days notice in writing to Flinders that the Minister proposes to terminate this Agreement, together with reasons for that proposed termination; and
- (c) the Minister is, on reasonable grounds, satisfied that within that 60 day period Flinders has not taken all reasonable and practical actions (having regard to the reasons given by the Minister under clause 7.2(b) and the Criteria):

- (1) to remedy any matter referred to in the reasons provided by the Minister; or
- (2) if the matter is not capable of remedy, to prevent the matter from occurring again.

7.3 Flinders may terminate

Flinders may terminate this Agreement at any time by notice in writing to the Minister.

8 Benefit of Agreement

8.1 Holders of the Specially Issued Licence

In accordance with Clause 5 of Schedule 1 to the Restructuring and Disposal Act, this Agreement is binding on, and operates for the benefit of, Flinders, successive holders of the Specially Issued Licence and any person who holds some subsequently granted licence under the Electricity Act 1996 (SA) which authorises the operations to which this Agreement relates.

9 Related Bodies Corporate

9.1 Application of Section 137

Section 137 of the Environment Protection Act (s.137) applies to this Agreement.

9.2 Liability of Parties

Where, having regard to the terms of this Agreement, a party to this Agreement is liable for a payment under the Environment Protection Act or pursuant to an order of a court under the Environment Protection Act, that party must make that payment by the Due Date.

9.3 Liability of Related Bodies Corporate

Where a body is a related body corporate of a party to this Agreement within the meaning of the Environment Protection Act and at the time referred to in s.137, that body is liable for a payment to which s.137 relates when:

- (a) the Due Date for the making of that payment has passed; and
- (b) the payment has not been made.

10 EPA licence

10.1 Licences and Exemptions survive

The EPA Licences and Exemptions will not be cancelled, revoked or terminated due to any failure to comply with the Environment Protection Act where that

failure is authorised or permitted by this Agreement. Further, the EPA will not make any amendment to nor impose any new or additional condition in any EPA Licence or Exemption during the term of this Agreement which is inconsistent with any provision of this Agreement.

11 Fee

11.1 Administration Fee

On 31 October in each year, Flinders will pay an annual fee to the Minister of 100 fee units (as defined in the Environment Protection Act) as a contribution towards the costs of the EPA in administering this Agreement. That annual fee will be in addition to the fees ordinarily payable for EPA Licences and Exemptions.

12 Gazettal

12.1 Compliance with Restructuring and Disposal Act

The Minister must within the Gazettal Period procure gazettal of this Agreement in accordance with the requirements of clause 5(8) of the Restructuring and Disposal Act.

13 Confidential Information

13.1 Reports to be confidential

The Minister acknowledges that the reports provided by Flinders under this Agreement are commercial in confidence and confidential to Flinders and shall not be copied or disclosed to any third party except with the prior written agreement of Flinders or for the purpose of the EPA complying with its legislative obligations (including its obligation to determine what, if any, part of the reports detailing monitoring, tests or evaluation should be available under Section 109 of the EP Act) provided that any information disseminated by the EPA cannot be traced to Flinders or the operations of the Augusta Power Stations except in relation to information which would, but for this Agreement, have been provided to the EPA pursuant to the EPA Licences and Exemptions and would have been publicly available.

14 Acknowledgments

14.1 Specially Issued Licence

The parties acknowledge that at the date of this Agreement Flinders is the holder of a Specially Issued Licence.

14.2 Programs

The Minister confirms that the programs set out in clause 4 are programs directed towards reducing the adverse effects on the environment of the operations authorised by the Specially Issued Licence referred to in Recital A.

Schedule 1 - Environment Improvement Program

Schedule 1 - Environment Improvement Program

In this Schedule 1 references:

- (a) to the EPA are references to either the Environment Protection Authority or the Environment Protection Agency as the context requires;
- (b) to monitoring points are references to the monitoring points most recently notified in writing to the EPA prior to the date of this Agreement.

1 NOx and Particulates Impacts

1.1 Monitoring and Reporting

In order to provide information as to the impact of the Northern Power Station and Playford Power Station on the environment, Flinders will:

- (a) monitor discharges of NOx and particulates from the Northern Power Station in a manner approved in writing by the EPA and provide the monitoring results in writing to the EPA on a monthly basis;
- (b) calculate the NOx and particulate discharges from the Playford Power Station on a monthly basis based on its level of operation and provide this information in writing on a monthly basis to the EPA;
- (c) conduct ambient air quality monitoring for NOx at a location in Port Augusta approved in writing by the EPA on a continuous basis and provide the results in writing to the EPA on a continuous basis;
- (d) once the Playford Power Station ceases to operate, it will not be necessary for Flinders to monitor and model particulate emissions in the manner contemplated by paragraph (b) above.

1.2 Tests and Boiler Tuning

Flinders shall carry out the following testing and boiler tuning program so as by January 2002 to have finalised a series of operating procedures to reduce the emission of NOx from the Northern Power Station.

Future NOx Reduction Program

(1) Action	Completion Date
Undertake pulverised fuel and air flow tests on unit 2 as per unit 1.	OCTOBER 00
Optimise pulverised fuel distribution on both units to within $\pm 10\%$ between burners by modification and pulverised fuel pipework.	SEPT 01
Optimise pulverised fuel grind through classifier modifications.	SEPT 01
Minimise excess O ₂ and FGR levels while maintaining NO _x at minimum levels.	Ongoing

(1) Action	Completion Date
Conduct another test program to assess whether 700 mg/Nm ³ is achievable during normal operation with no further modifications.	OCT 01
Change set points on boiler and change control philosophy.	DEC 01

2 Monitoring and Modelling

2.1 Lodging Reports

Prior to 30 September in each year, lodge a written annual report with the EPA which contains information derived from the monitoring and modelling required to be undertaken pursuant to this Agreement on the number of occasions, duration of each occasion and total time during the 12 months up to 30 June in that year during which:

- (a) NO_x emissions from the exhaust stacks for the Power Stations were in excess of the Plant Design Limits; and
- (b) the ground level concentrations of nitrogen dioxide in the vicinity of the Power Stations were in excess of the Applicable Air Limit;

the written annual report shall also outline steps taken by Flinders to carry out other measures or comply with other requirements in the EIP;

2.2 Reporting and Measuring Nox

For the purposes of this EIP, reporting of NO_x shall be based on:

- (a) For Northern:
 - (1) existing on-line NO_x instrumentation;
 - (2) being the average of Unit 1 and Unit 2;
 - (3) an 8-hour average of 10 minute data; and
 - (4) expressed as milligrams of NO₂ per Nm³.
- (b) For Playford:
 - (1) annual NO_x testing on Boiler 1 to demonstrate full load, steady state operation within the Plant Design Limit; and
 - (2) expressed as milligrams of NO₂ per Nm³.

2.3 Ground NO₂ Limit

Contribution from Northern and Playford to overall ground level NO₂ at Port Augusta Township is to be determined if required using emission data and Ausplume or a similar model as agreed in writing with the EPA.

3 Thermal Discharges into Marine Waters

3.1 Impacts

In order to provide information as to the impact of the Northern Power Station and Playford Power Station on the environment, Flinders will:

- (a) Carry out routine discharge monitoring at the monitoring points;
- (b) On the basis of assessment from biennial aerial photographs of the area (map land) and observations based on the historical data, report in writing any adverse impacts on sea grasses related to power station operations;
- (c) Monitor water temperature rise in accordance with the methods described in the definitions of "Northern Thermal Standard" and "Playford Acceptable Thermal Standard" in this Agreement;
- (d) Report to the EPA in writing within 7 days of becoming aware of the exceedance, any exceedance of the maximum allowable thermal load, given by occurrences where the average weekly temperature rise across all operating units with all pumps operating exceeds Northern Thermal Standard or the Playford Acceptable Thermal Standard.

4 Ash Pond Discharges to Hospital Creek/Spencer Gulf

In order to provide information as to the impact of the Northern Power Station and Playford Power Station on the environment, Flinders will:

- (a) Carry out routine biennial salinity, trace element and nutrient monitoring at the Mid-Gulf monitoring point and other monitoring points; and
- (b) Report to EPA in writing within 7 days of becoming aware of the exceedance, any exceedance of the Marine Environment Goal at the mid-Gulf monitoring point.

5 Ash Pond Leaching

In order to provide information as to the impact of the Northern Power Station and Playford Power Station on the environment, Flinders will:

- (a) Carry out routine biennial salinity, trace element and nutrient monitoring of Ash Pond seepage; and
- (b) Report to EPA in writing within 7 days of becoming aware of the same, any leaching that has the potential to cause Serious Environmental Harm for example by reference to the mid-Gulf and other monitoring points.

6 Environmental Management System

- (a) Flinders will cause to be carried out by a suitably qualified person an annual environmental audit of the operations of the Northern Power

Station and Playford Power Station using Audit Protocols approved in writing by the EPA.

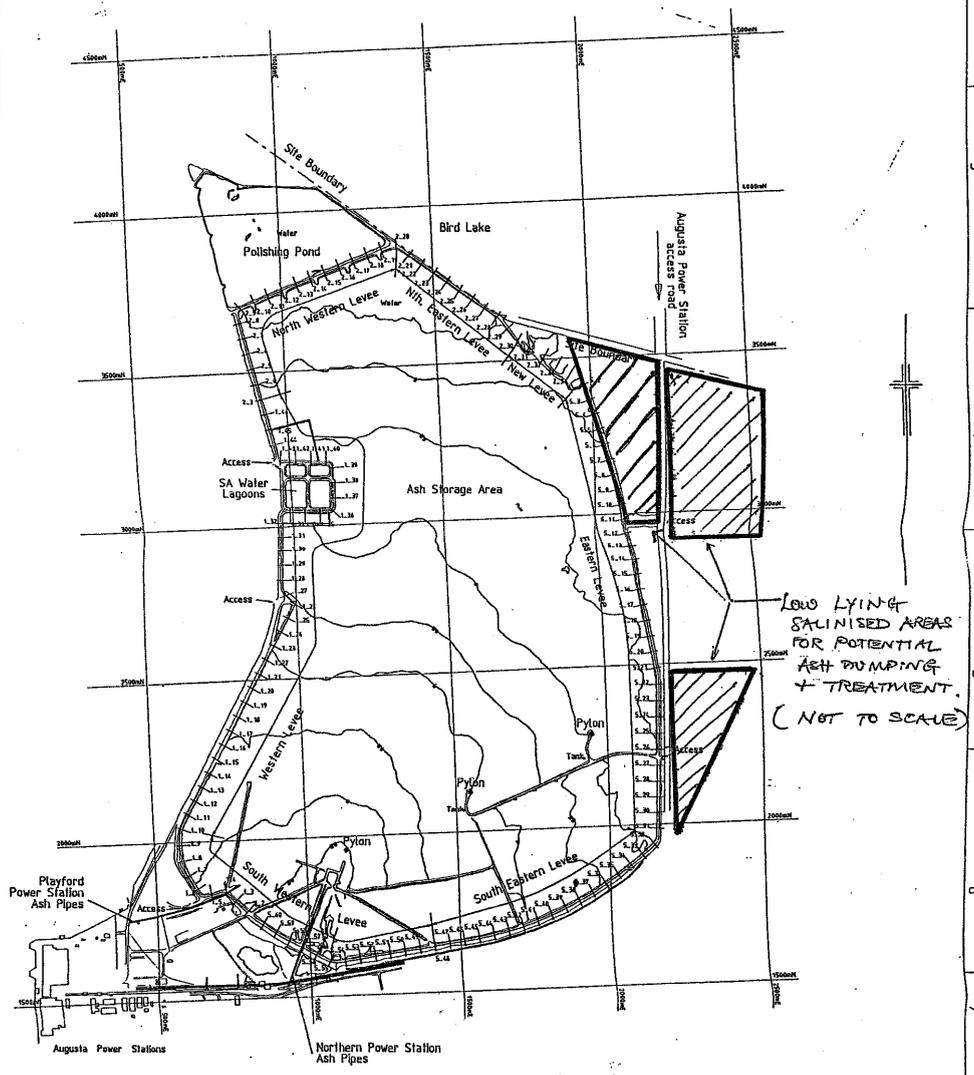
- (b) Flinders will carry out an independent environmental audit of the adequacy of its environmental management system relating to the Northern Power Station and Playford Power Station every three years.
- (c) Flinders will hold an annual community consultation meeting to discuss any matters that members of the public wish to raise in respect of the environmental aspects of the operations of the Northern Power Station and Playford Power Station. Report the outcome of the proceedings to the EPA within eight weeks of the meeting.
- (d) Flinders will regularly inspect the site of the Northern Power Station and Playford Power Station to ensure that all materials and wastes at the site which have the potential to pollute the environment are properly stored and contained.
- (e) Flinders will undertake regular monitoring of stormwater control systems at the Northern Power Station and Playford Power Station.
- (f) Flinders will supply to the EPA within eight weeks of receipt, copies of audit summaries carried out under clauses 6(a) and 6.(b) above.

Schedule 2 - Plan for clause 3.5

FOR TENDERING ONLY

REV	DETAILS OF REVISION	RVD	CHK	APP	DATE
1					
2					
3					
4					
5					
6					
7					
8					

DRG	JG Kemp	04/04/2000
CHKD	Ken Gray	06/04/2000
NSR		
APPR		
SCALE	1:10000	
Flinders Power Pty Ltd GENERAL ARRANGEMENT ASH STORAGE UPGRADE 2000 AUGUSTA POWER STATION		
REV	A2	211 ETR/008
FLINDERS POWER 10579		



NOTE: Do not rely on any levels shown on this plan.

TO : RAINSLIE
 FROM: S PUNITHAM
 1 SEPT 2000.

EXECUTED in Adelaide, South Australia.

The Common Seal of The Minister for Environment and Heritage of the State of South Australia, acting for and on behalf of the Crown in right of the State of South Australia was duly affixed in the presence of:



[Signature]
Witness

Hon Iain Evans MP
Name (please print) 26/09/00

Signed Sealed and Delivered for NRG Generating Holdings (No 2) GmbH ARBN 094 284 723 by its duly constituted power of attorney in the presence of:

[Signature]
Witness

R. AINSLIE
Name (please print)

JAY M CARPENTER
Attorney

JAY M CARPENTER
Name of Attorney

Signed Sealed and Delivered for Flinders Labuan (No 1) Limited ARBN 094 284 812 by its duly constituted power of attorney in the presence of:

[Signature]
Witness

R. AINSLIE
Name (please print)

JAY M CARPENTER
Attorney

JAY M CARPENTER
Name of Attorney

Signed Sealed and Delivered for
Flinders Labuan (No 2) Limited ARBN
094 284 769 by its duly constituted power
of attorney in the presence of:

R. Ainslie
Witness

R. AINSLIE
Name (please print)

JAY M CARPENTER
Attorney

JAY M CARPENTER
Name of Attorney

Signed Sealed and Delivered for **NRG**
Flinders Operating Services Pty Ltd
ACN 094 130 837 by its duly constituted
power of attorney in the presence of:

R. Ainslie
Witness

R. AINSLIE
Name (please print)

JAY M CARPENTER
Attorney

JAY M CARPENTER
Name of Attorney

The terms of this Agreement are hereby approved prior to execution by the Environment
Protection Authority this 20th day of September 2000.

The Common Seal of the
Environment Protection Authority
was hereunto affixed in the presence of:



[Signature]
Member

[Signature]
Member