

**VOLUNTARY AGREEMENT**

**FOR THE**

**DISCLOSURE OF THE INGREDIENTS**

**OF CIGARETTES**

**December 2000**

# TABLE OF CONTENTS

<b>I. PRELIMINARY</b>	<b>4</b>
1. Application of Agreement	4
2. Period of Agreement	4
3. Object of Agreement	4
4. Definitions	4
5. Future extension of Agreement	6
<b>II. DISCLOSURE TO THE GOVERNMENT</b>	<b>6</b>
6. Ingredients of cigarettes	6
7. Attestation that reports true and complete	7
8. Manufacturer's details etc to be provided with reports	7
9. Additional information to be provided on request	8
10. Verification	8
<b>III. DISCLOSURE TO THE PUBLIC</b>	<b>8</b>
12. Disclosure to the public	8
<b>IV. DISPUTE RESOLUTION</b>	<b>9</b>
13. Dispute Resolution	9
<b>V. VARIATION</b>	<b>9</b>
14. Variation	9
<b>VI. REVIEW</b>	<b>9</b>
15. Review	9
<b>VII. EXECUTION</b>	<b>10</b>

AGREEMENT made the 20<sup>th</sup> day of December 2000

BETWEEN

COMMONWEALTH OF AUSTRALIA represented by the Minister for Health and Aged Care acting through the Department of Health and Aged Care ('the Commonwealth') of the one part

AND

PHILIP MORRIS LIMITED ACN 004 316 901;

IMPERIAL TOBACCO AUSTRALIA LIMITED ACN 088 148 681;

AND

BRITISH AMERICAN TOBACCO AUSTRALIA LIMITED ACN 000 151 100 ('the Manufacturers') of the other part

PREAMBLE

- A. It is important that consumers have information concerning the ingredients of tobacco products.
- B. Information on ingredients should be made available in a way that effectively informs the public.
- C. Information on ingredients should be made available in a way that protects the confidentiality of tobacco manufacturers' trade secrets, and which does not impose unreasonable burdens on tobacco manufacturers with respect to the time, cost and effort required to compile and disclose the information.

OUTLINE

This Agreement specifies the protocol for disclosure by Manufacturers to the Commonwealth of the ingredients of cigarettes for cigarettes manufactured by a Manufacturer or a related company and sold by a Manufacturer in Australia; and

IT IS AGREED AS FOLLOWS:

## **I. PRELIMINARY**

### **1. Application of Agreement**

- 1.1 This Agreement applies to cigarettes manufactured by a Manufacturer or a related company and sold by a Manufacturer in Australia during the period of this Agreement.
- 1.2 The obligations of the Manufacturers under this Agreement are several and not joint.

### **2. Period of Agreement**

- 2.1 Unless the parties otherwise agree in writing, the provisions of the Agreement continue in force for 3 years from its date.

### **3. Object of Agreement**

- 3.1 The object of this Agreement is to promote and protect the health of Australians by facilitating the provision of accurate information to the public about the ingredients of cigarettes.

### **4. Definitions**

- 4.1 In this Agreement:

‘**brand**’ means all of the brand elements that as a whole are used by a Manufacturer to identify to a consumer a cigarette product of the Manufacturer;

‘**brand variant**’ means the individual product lines within a brand which are distinctly different from each other and identified as such to a consumer, e.g. Brand X, Brand X filter, Brand X menthol;

‘**cigarette**’ means any factory made roll or tubular construction containing tobacco wrapped in paper and intended for smoking, other than a cigar;

‘**flavouring**’ means a substance added to tobacco to impart a specific taste, flavour or aroma in a tobacco product;

‘**ingredient**’ means both tobacco and non-tobacco substances used in the manufacture of cigarettes;

**‘ingredient added to tobacco’** means any substance added to tobacco by a Manufacturer in the manufacture of cigarettes;

**‘Manufacturers’** means Philip Morris Limited (ACN 004 316 901), Imperial Tobacco Australia Limited (ACN 088 148 681) and British American Tobacco Australia Limited (ACN 000 151 100);

**‘Minister’** means the Commonwealth Minister of State for Health and Aged Care or such other Commonwealth Minister of State having responsibility for public health;

**‘non-tobacco component’** means cigarette papers, die print ink/monogram ink, paper sideseam adhesives, filters, filter papers/plugwrap papers, tipping papers and tipping inks/filter paper inks, and tipping/filter adhesives.

**‘non-tobacco ingredient’** means any substance used in the manufacture of the non-tobacco components of cigarettes;

**‘product weight’** means the total weight of a single finished cigarette of a stated brand variant at nominal packing moisture at time of manufacture, including non-tobacco ingredients;

**‘quantity not exceeded’** means an amount equal to or higher than the highest level of use in a single brand and expressed as a percentage of the total weight of the cigarette for the stated brand variants;

**‘related company’** has the meaning ascribed to it under the Corporations Law;

**‘reporting day’** means 1 May except for the last of those reports for which it is the day 60 days after the expiry date of this Agreement, and

**‘reporting period’** means the period from the commencement of this Agreement to 1 March 2001, and thereafter the period of 12 months ending on 1 March in each year during the period of this Agreement except for the last reporting period in 2003 when the period ends on the expiry date of the Agreement, that is 21 December 2003.

**‘tobacco product’** includes cigarettes, cigars, pipe tobacco and cut tobacco for rolling cigarettes;

**‘tobacco weight’** means the weight of the tobacco plus the weight of any ingredients added to tobacco in a single finished cigarette of a brand variant at nominal packing moisture.

## 5. Future extension of Agreement

- 5.1 The parties acknowledge that it is their intention that either by amendment of this Agreement or the making of a further agreement or further agreements, the obligations imposed by this Agreement may be extended or varied. This may include extending the Agreement to cover the testing and disclosure by the Manufacturers of the emissions in cigarette smoke.

## II. DISCLOSURE TO THE GOVERNMENT

### 6. Ingredients of cigarettes

- 6.1 Each Manufacturer must submit a written ingredients report to the Minister on the reporting day for cigarettes manufactured by the Manufacturer or a related company and sold by the Manufacturer in Australia during that reporting period.
- 6.2 The ingredients report must be submitted both in writing and electronically and must contain the information specified in Clause 6.3 and be in the form specified in Attachment A. The Commonwealth will take all reasonable measures to prevent unauthorised variation or amendment of such reports.
- 6.3 The ingredients report must specify the following information for cigarettes manufactured by a Manufacturer or related company and sold by the Manufacturer in Australia during the reporting period:
- (i) **By-brand variant disclosure:** For each brand variant, the Manufacturer must disclose the
    - (A) brand variant name;
    - (B) product weight;
    - (C) tobacco weight;
    - (D) ingredients added to tobacco, listed in descending order by weight of ingredient as added, except that:
      - (i) flavourings that give each brand variant its unique characteristics need not be disclosed individually but may be grouped as “natural” and/or “artificial” flavours in the by-brand variant list; and
      - (ii) processing aids and preservatives that are not significantly present in and do not functionally affect the finished product need not be disclosed individually but may be grouped as “processing aids” and/or “preservatives” in the by-brand variant list.

(E) all ingredients added to tobacco must be individually disclosed in the composite list of ingredients added to tobacco required under paragraph (ii) of clause 6.3. Each Manufacturer shall disclose the criteria it applied (including quantitative cut-offs) to determine which flavourings it included in the by-brand variant lists.

- (ii) **Composite list of ingredients added to tobacco**: Each Manufacturer shall disclose in a composite list each and every ingredient added to tobacco used in any brand variant covered by this Agreement. The composite list of ingredients added to tobacco shall be in alphabetical order and specify the function of the ingredient and the ‘quantity not exceeded’ value. Processing aids that are not significantly present in, and do not functionally affect, the finished product may be disclosed in the composite list without the “quantity not exceeded” value.
- (iii) **Composite list of non-tobacco ingredients**: Each Manufacturer shall disclose in a composite list (grouped by component category) the ingredients in the non-tobacco components of any brand variant covered by this Agreement. Such ingredients shall be disclosed in each non-tobacco component category in descending order by weight, and shall include the ‘quantity not exceeded’ value for each such ingredient (with the exception of processing aids and preservatives that are not significantly present in and do not functionally affect the finished product).

6.4 The reporting obligations under this clause 6 survive the expiration of this Agreement, so that an ingredients report must be submitted within 60 days of the expiration of the Agreement for the reporting period from 2 March last occurring during the period of the Agreement to the expiry date of the Agreement.

## **7. Attestation that reports true and complete**

7.1 Each report made under Part II must include an attestation that states that the information in the report is true and complete to the best of the knowledge and belief of the person responsible for the report and is provided in good faith.

## **8. Manufacturer’s details etc to be provided with reports**

8.1 Each report made under Part II must include the following information:

- (i) the name, address and telephone number of the Manufacturer on whose behalf the report is made, and the person responsible for the report;
- (ii) the address of the Manufacturer’s principal place of business in Australia;

- (iii) the address of the place(s) of business where the cigarettes that are the subject of the report were manufactured;
- (iv) a list of every cigarette product that the Manufacturer or a related company manufactures and sells in Australia, by brand and brand variant, during the ingredient reporting period;
- (v) the date of the report; and
- (vi) the period covered by the report.

## **9. Additional information to be provided on request**

- 9.1 If the Minister determines that additional information is required from a Manufacturer to that contained in the ingredients report in order to satisfy the protocols set out in this Agreement, the Minister may, in writing and with reasons, request that the Manufacturer provide further information in writing. Clarification of information provided may also be sought by the Minister.
- 9.2 The Manufacturer shall provide any additional information or clarification within 30 days after the Minister's request is received or at such later date as may be agreed with the Minister if the Minister determines that more time to comply with the request is necessary because of the complexity of the request or because new analyses or calculations are required to satisfy the request.

## **10. Verification**

- 10.1 The reported results for ingredients may be independently verified by the Commonwealth at the Commonwealth's cost.

## **III. DISCLOSURE TO THE PUBLIC**

### **11. Disclosure to the public**

- 11.1 Any party may disclose to any person or make publicly available all information obtained under this Agreement.
- 11.2 The Minister may disclose to any person or make publicly available information about a Manufacturer's compliance or non-compliance with its obligations under this Agreement. Where possible the Minister will inform the relevant Manufacturer prior to such disclosure and provide a reasonable opportunity for the Manufacturer to comment on the content of such disclosure.

#### **IV. DISPUTE RESOLUTION**

##### **12. Dispute Resolution**

12.1 In the event that any dispute arises under this Agreement between the Commonwealth and a Manufacturer the parties to the dispute will refer it for resolution in the first instance to the Secretary of the Department of Health and Aged Care and the Secretary or equivalent officer of the Manufacturer. Where they are unable to resolve the matter, it will be referred to the Minister and the Chairman or equivalent officer of the Manufacturer, or persons authorised by them, for resolution.

#### **V. VARIATION**

##### **13. Variation**

13.1 To be effective any variation of this Agreement must be in writing and signed by or on behalf of the Commonwealth and each Manufacturer.

#### **VI. REVIEW**

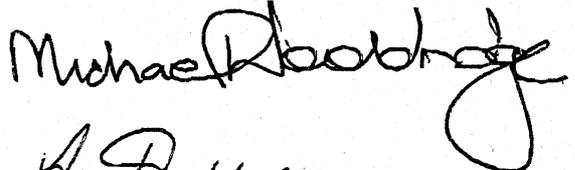
##### **14. Review**

14.1 The parties agree to meet on a regular basis, but not less frequently than every six months during the term of this Agreement, to review the operation of this Agreement.

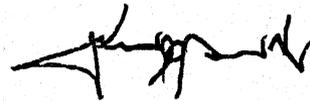
**VII. EXECUTION**

**SIGNED** as an Agreement

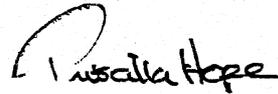
Signed for and on behalf of )  
**COMMONWEALTH OF AUSTRALIA** )  
by the Hon Dr Michael Richard )  
Lewis Woolridge MP, Minister )  
for Health and Aged Care )  
in the presence of: )

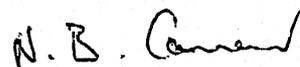

Signed for and on behalf of )  
**PHILIP MORRIS LIMITED** )  
by )



in the presence of: )



Signed for and on behalf of )  
**IMPERIAL TOBACCO AUSTRALIA** )  
**LIMITED** by )



in the presence of: )



Signed for and on behalf of )  
**BRITISH AMERICAN TOBACCO** )  
**AUSTRALIA LIMITED** by )



in the presence of: )

