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## ENFORCEABLE UNDERTAKING

### AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION SECTION 93AA AUSTRALIAN SECURITIES & INVESTMENTS COMMISSION ACT

The commitments in this undertaking are offered to the Australian Securities & Investments Commission ("ASIC") by:

**STEPHEN DAMIEN MICHAEL PERKS**  
of 27 Park Avenue, MALANDA in the State of Queensland  
(hereinafter also referred to as "Mr. Perks")

#### 1. BACKGROUND

- 1.1 Mr Perks has in the period September to October 1999 utilised the names "Mareeba Ballooning Cooperative" and "Mareeba Balloon Company" to invite subscriptions from members of the public to invest in shares of a proposed company intended to conduct a ballooning business in the Mareeba district of North Queensland (hereinafter called the "proposed company").
- 1.2 As a result of its investigations conducted to date ASIC has determined that Mr Perks has, in contravention of section 1019 of the Corporations Law, invited subscriptions from members of the public in a company yet to be incorporated.
- 1.3 ASIC has found that conduct giving rise to suspected contraventions includes but is not limited to the circulation by Mr Perks to members of the public of documentation relating to a business proposal involving the issue and allotment of shares in a company, as well as the collection by Mr Perks of the names and contact details of prospective investors in that company in an expression of interest survey form.
- 1.4 Mr. Perks has advised ASIC that no funds have been collected from any person in relation to shares in the proposed company.
- 1.4. Mr Perks acknowledges and admits that his conduct described in paragraph 1.3 hereof has contravened section 1019 of the Corporations Law and agrees to proffer to ASIC an undertaking within the terms set out hereunder.

#### 2. UNDERTAKINGS

- 2.1 Mr Perks hereby undertakes that he will:
  - cease advertising or otherwise promoting investments in the proposed company or any other corporation that has yet to be incorporated;

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- not advertise or otherwise promote investments in any managed investment scheme not registered under Chapter 5C of the Corporations Law;
- not issue any form of application in relation to shares or other securities of the proposed company or any other corporation that has yet to be incorporated or in relation to any managed investment scheme not registered under Chapter 5C of the Corporations Law;
- cease inviting subscriptions for securities, or otherwise collecting expressions of interest from prospective subscribers, in relation to securities of the proposed company or any other corporation that has yet to be incorporated or any managed investment scheme not registered under Chapter 5C of the Corporations Law;
- advise ASIC, prior to contacting any prospective investor, of any further proposals by him to invite subscriptions or issue applications for securities.

2.2 Mr Perks agrees to be available to be contacted by, and to render all reasonable assistance to, ASIC officers who will have the responsibility for monitoring the compliance obligations set out in clause 2.1 hereof.

### 3. ACKNOWLEDGMENTS

3.1 Mr Perks agrees and acknowledges that ASIC:

- (a) may issue a media release on execution of this undertaking referring to its terms and the concerns of ASIC which led to its execution;
- (b) may from time to time publicly refer to this undertaking; and
- (c) will make this undertaking available for public inspection.

3.2 Mr Perks acknowledges that this undertaking in no way derogates from the rights and remedies available to ASIC or any other person arising from any conduct described in this undertaking.

3.3 Mr. Perks acknowledges that ASIC's acceptance of an enforceable undertaking does not affect ASIC's power to investigate a contravention arising from future conduct, or pursue a criminal prosecution, or its power to lay charges or seek a pecuniary civil order.

3.4 Mr Perks acknowledges that this undertaking has no operative force until accepted by ASIC.

*Perks*

Signed by STEPHEN DAMIEN  
MICHAEL PERKS this 3rd  
day of November 1999  
December

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In the presence of *G. Perks*

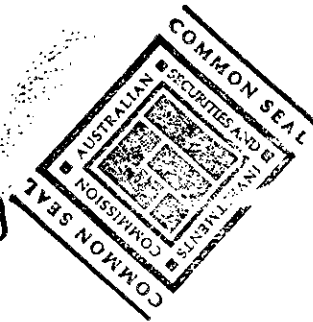
Name: GABRIELE PERKS

ACCEPTED BY THE AUSTRALIAN SECURITIES & INVESTMENTS  
COMMISSION PURSUANT TO ASIC ACT S93AA BY ITS DULY  
AUTHORISED DELEGATE:

*[Signature]*

[Name] *Anthony BEVEN*  
[Position] *Regional Commissioner (1947)*

This 13<sup>th</sup> day of *December* 1999



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