



**Energetique Pty Limited ACN 125 274 437**

100 Barney Street, Armidale NSW 2350

and

**Phillip Raymond Coop**

12008 Pacific Highway, Armidale NSW 2350

## **1. Definitions**

- 1.1 In addition to terms defined elsewhere in this undertaking, the following definitions are used:

**ASIC Act** means the *Australian Securities and Investments Commission Act 2001* (Cth)

**Corporations Act** means the *Corporations Act 2001* (Cth)

**Dr Coop** means Phillip Raymond Coop

**Energetique** means Energetique Pty Limited ACN 125 274 437.

**Energetique Website** means the website [www.energetique.com.au](http://www.energetique.com.au)

## **2. Background**

### **2.1 ASIC's role**

- 2.1.1 Under s1 of the ASIC Act, ASIC is charged with a statutory responsibility to perform its functions and to exercise its powers so as to promote the confident and informed participation of investors and consumers in the financial system.

### **2.2 Details of Conduct**

- 2.2.1 Energetique is a company which was incorporated in Australia on 7 May 2007. Energetique is based in Armidale New South Wales and is engaged in the business of designing and producing an electric vehicle.
- 2.2.2 At all times Dr Coop has been the sole director, secretary and shareholder of Energetique.
- 2.2.3 In December 2007 Dr Coop established the Energetique Website and arranged

2.2.7. Between December 2007 and July 2008 Dr Coop posted to any person who requested more information about Energetique a package of documents containing:

- (a) A form letter signed by Dr Coop stating: *"We are currently attempting to build an investor base comprising a number of small investors. The purpose of seeking investors at this stage is to provide funding for the research and development of the Energetique Electric Vehicle. To that end, we are seeking expressions of interest from potential investors. ...We envisage that, when we have established the extent of interest, investment will be directly in the company Energetique Pty Ltd. The investors will hold shares in the company pro rata to their investment."*
- (b) An application form which was headed either "Energetique Expression of Interest" or "Energetique Expression of Interest Unit Trust Investment" and which contained the statement *"I am /we are interested in investing \$ in Energetique and attach my cheque for that amount" and "Investments must be in multiples of \$20,000."*
- (c) A document headed "Energetique Business Plan Overview".

2.2.8. Energetique has received investments totalling \$120,000 from a total of four investors. Energetique has spent the funds invested by investors, however the investors have not been issued with any shares in Energetique.

2.2.9. Energetique has not lodged with ASIC a disclosure document for the company's fundraising activities.

2.2.10. Dr Coop has advised ASIC that he did not obtain professional advice in relation to fundraising requirements.

### **2.3 ASIC's investigation and analysis**

2.3.1. On 5 August 2008 ASIC commenced an investigation into suspected contraventions of sections 113(3), 727 and 734 of the Corporations Act in relation to fund raising activities conducted by Energetique and Dr Coop.

## **2.5 Acknowledgement of concerns**

2.5.1 Energetique and Dr Coop acknowledge ASIC's concerns and, in so doing have:

- (a) voluntarily made admissions to ASIC; and
- (b) cooperated with ASIC during its investigations.

## **3. Undertakings**

3.1 Under s93AA of the ASIC Act Energetique and Dr Coop have offered, and ASIC has agreed to accept as an alternative to pursuing court action, seeking an injunction under s1324 of the Corporations Act, the following undertakings.

3.2 Energetique and Dr Coop undertake that they will not, at any time in the future:

- (a) seek to raise funds from investors; or
- (b) advertise or publish a statement that refers directly or indirectly to attempts to raise funds from investors,

unless they have first obtained advice about their obligations under Australian law, including the Corporations Act and the ASIC Act, from a legal practitioner with at least 5 years experience in corporate law matters.

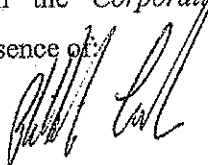
3.3 Energetique and Dr Coop undertakes that within 7 days of entry into this Enforceable Undertaking they will:

- (a) remove any invitations to invest in Energetique from the Energetique Website and all other promotional documentation;
- (b) repay to investors the moneys paid to Energetique for investment in that company;
- (c) send by ordinary pre-paid post or email to all people who sent letters or emails expressing an interest in investing in Energetique a letter in the form of Annexure A to this Enforceable Undertaking;


of paragraphs 3.1 to 3.4 above.

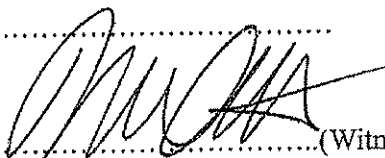
4.4 Energetique and Dr Coop acknowledge that this undertaking has no operative force until accepted by ASIC, and Energetique, Dr Coop and ASIC acknowledge that the date of the enforceable undertaking is the date on which it is accepted by ASIC.

THE COMMON SEAL of ENERGETIQUE )  
PTY LIMITED was affixed in accordance )  
with the Corporations Act 2001 in the  
presence of:

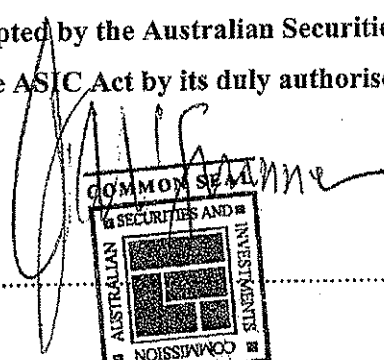
  
..... Director/Company Secretary  
*SOCE*

EXECUTED this <sup>9<sup>th</sup></sup> ~~October~~ November 2008 by  
PHILLIP RAYMOND COOP in the presence of

  
.....  
RAYMOND  
Raymond Phillip, Coop

  
..... (Witness)  
RODERICK JAMES WATT  
SOLICITOR, ARMIDALE

Accepted by the Australian Securities and Investments Commission under s93AA  
of the ASIC Act by its duly authorised delegate:

  
.....  
COMMON SEAL  
AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION  
COMMON SEAL  
Delegate of Australian Securities and Investments Commission  
David J McGinness  
Senior Executive  
Financial Services - Deterrence

## Annexure B

[insert the following text in a prominent position on Energetique website]

**Important Notice: ASIC raises concerns about Energetique seeking investors  
For more information click here.**

[insert the following text on the linked web page

### **ASIC's concerns about Energetique seeking investors**

This notice is part of an Enforceable Undertaking that Energetique Pty Ltd (**Energetique**) and Phillip Coop (the director of Energetique) have entered into with the Australian Securities and Investments Commission (**ASIC**).

Energetique has made a number of statements on this website inviting people to invest with Energetique. Mr Coop also prepared articles that were published in the January-March 2008 edition of the *ReNew* Magazine and in the May 2008 edition of the *New England Focus* magazine which referred to Energetique seeking investors. Further, the *New England Focus* article stated that the Australian Government had granted Energetique a \$12.5 million research and development grant through the Ausindustry Research and Development program.

ASIC had the following concerns about the conduct of Energetique and Mr Coop.

1. Energetique was seeking to raise funds without preparing, and lodging with ASIC, a disclosure document containing information for potential investors to allow them to properly assess the investment. This is prohibited by Corporations Act.
2. Energetique and Mr Coop were also breaching provisions of the Corporations Act which place restrictions on advertising and publicising this type of fundraising.
3. Energetique has not received a research and development grant of \$12.5 million dollars and accordingly the statement made in the *New England Focus* article was false.

Energetique has agreed to stop seeking investors until it has sought and received professional legal advice about its obligations under the Corporations Act.

A copy of Enforceable Undertaking entered into between Energetique, Mr Coop and ASIC can be viewed on ASIC's website at [www.asic.gov.au](http://www.asic.gov.au)