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ASX release

AGL Energy Subordinated Notes

2 March 2012

Attached is the Appendix 3B in relation to the AGL Energy Subordinated Notes (Notes).
A prospectus in relation to the Notes was lodged with ASIC and ASX on 28 February 2012.



Paul McWilliams
Company Secretary

About AGL

AGL is one of Australia's leading integrated renewable energy companies and is taking action toward creating a sustainable energy future for our investors, communities and customers. Drawing on over 170 years of experience, AGL operates retail and merchant energy businesses, power generation assets and an upstream gas portfolio. AGL has Australia's largest dual fuel customer base. AGL has a diverse power generation portfolio including base, peaking and intermediate generation plants, spread across traditional thermal generation as well as renewable sources including hydro, wind, landfill gas and biomass. AGL is Australia's largest private owner and operator of renewable energy assets and is looking to further expand this position by exploring a suite of low emission and renewable energy generation development opportunities.

Rule 2.7, 3.10.3, 3.10.4, 3.10.5

Appendix 3B

New issue announcement, application for quotation of additional securities and agreement

Information or documents not available now must be given to ASX as soon as available. Information and documents given to ASX become ASX's property and may be made public.

Introduced 1/7/96. Origin: Appendix 5. Amended 1/7/98, 1/9/99, 1/7/2000, 30/9/2001, 11/3/2002, 1/1/2003, 24/10/2005.

Name of entity

AGL Energy Limited

ABN

74 115 061 375

We (the entity) give ASX the following information.

Part 1 - All issues

You must complete the relevant sections (attach sheets if there is not enough space).

- | | | |
|---|--|---|
| 1 | +Class of +securities issued or to be issued | Dated, subordinated, cumulative, unsecured notes (Notes) |
| 2 | Number of +securities issued or to be issued (if known) or maximum number which may be issued | Approximately 6,500,000 with the ability to issue more or less |
| 3 | Principal terms of the +securities (eg, if options, exercise price and expiry date; if partly paid +securities, the amount outstanding and due dates for payment; if +convertible securities, the conversion price and dates for conversion) | See Attachment to Appendix 3B under heading "Attachment 1 - Terms of the Notes" |

+ See chapter 19 for defined terms.

Appendix 3B
New issue announcement

4 Do the ⁺securities rank equally in all respects from the date of allotment with an existing ⁺class of quoted ⁺securities? If the additional securities do not rank equally, please state: • the date from which they do • the extent to which they participate for the next dividend, (in the case of a trust, distribution) or interest payment • the extent to which they do not rank equally, other than in relation to the next dividend, distribution or interest payment	Not applicable Not applicable						
5 Issue price or consideration	\$100 per Note						
6 Purpose of the issue (If issued as consideration for the acquisition of assets, clearly identify those assets)	AGL will use the proceeds from the Notes to increase its ownership interest in the Loy Yang A power station, and adjacent coal mine from 32.54% to 100%, and for general corporate purposes.						
7 Dates of entering ⁺securities into uncertificated holdings or despatch of certificates	Issue is scheduled for 4 April 2012						
8 Number and ⁺class of all ⁺securities quoted on ASX (including the securities in clause 2 if applicable)	<table> <tr> <th data-bbox="686 1512 973 1556">Number</th><th data-bbox="973 1512 1248 1556">⁺Class</th></tr> <tr> <td data-bbox="686 1556 973 1624">464,603,664</td><td data-bbox="973 1556 1248 1624">Ordinary Shares</td></tr> <tr> <td data-bbox="686 1624 973 1769">6,500,000 but may be more or less</td><td data-bbox="973 1624 1248 1769">Notes</td></tr> </table>	Number	⁺ Class	464,603,664	Ordinary Shares	6,500,000 but may be more or less	Notes
Number	⁺ Class						
464,603,664	Ordinary Shares						
6,500,000 but may be more or less	Notes						

⁺ See chapter 19 for defined terms.

	Number	+Class
9	Number and +class of all +securities not quoted on ASX (including the securities in clause 2 if applicable)	
10	Dividend policy (in the case of a trust, distribution policy) on the increased capital (interests)	Not applicable to the Notes

Part 2 - Bonus issue or pro rata issue

11	Is security holder approval required?	Not applicable
12	Is the issue renounceable or non-renounceable?	Not applicable
13	Ratio in which the +securities will be offered	Not applicable
14	+Class of +securities to which the offer relates	Not applicable
15	+Record date to determine entitlements	Not applicable
16	Will holdings on different registers (or subregisters) be aggregated for calculating entitlements?	Not applicable
17	Policy for deciding entitlements in relation to fractions	Not applicable
18	Names of countries in which the entity has +security holders who will not be sent new issue documents Note: Security holders must be told how their entitlements are to be dealt with. Cross reference: rule 7.7.	Not applicable

+ See chapter 19 for defined terms.

Appendix 3B
New issue announcement

19	Closing date for receipt of acceptances or renunciations	Not applicable
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+ See chapter 19 for defined terms.

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New issue announcement

20	Names of any underwriters	Not applicable
21	Amount of any underwriting fee or commission	Not applicable
22	Names of any brokers to the issue	Not applicable
23	Fee or commission payable to the broker to the issue	Not applicable
24	Amount of any handling fee payable to brokers who lodge acceptances or renunciations on behalf of ⁺ security holders	Not applicable
25	If the issue is contingent on ⁺ security holders' approval, the date of the meeting	Not applicable
26	Date entitlement and acceptance form and prospectus or Product Disclosure Statement will be sent to persons entitled	Not applicable
27	If the entity has issued options, and the terms entitle option holders to participate on exercise, the date on which notices will be sent to option holders	Not applicable
28	Date rights trading will begin (if applicable)	Not applicable
29	Date rights trading will end (if applicable)	Not applicable
30	How do ⁺ security holders sell their entitlements <i>in full</i> through a broker?	Not applicable
31	How do ⁺ security holders sell <i>part</i> of their entitlements through a broker and accept for the balance?	Not applicable

⁺ See chapter 19 for defined terms.

Appendix 3B
New issue announcement

- | | | |
|----|---|----------------|
| 32 | How do ⁺ security holders dispose of their entitlements (except by sale through a broker)? | Not applicable |
| 33 | ⁺ Despatch date | Not applicable |

Part 3 - Quotation of securities

You need only complete this section if you are applying for quotation of securities

34 Type of securities
(tick one)

(a) ☒ Securities described in Part 1

(b) ☐ All other securities

Example: restricted securities at the end of the escrowed period, partly paid securities that become fully paid, employee incentive share securities when restriction ends, securities issued on expiry or conversion of convertible securities

Entities that have ticked box 34(a)

Additional securities forming a new class of securities

Tick to indicate you are providing the information or documents

- 35 ☐ If the ⁺securities are ⁺equity securities, the names of the 20 largest holders of the additional ⁺securities, and the number and percentage of additional ⁺securities held by those holders
- 36 ☐ If the ⁺securities are ⁺equity securities, a distribution schedule of the additional ⁺securities setting out the number of holders in the categories
- 1 - 1,000

1,001 - 5,000

5,001 - 10,000

10,001 - 100,000

100,001 and over
- 37 ☒ A copy of any trust deed for the additional ⁺securities

⁺ See chapter 19 for defined terms.

Appendix 3B
New issue announcement

Entities that have ticked box 34(b)

38	Number of securities for which +quotation is sought	Not applicable				
39	Class of +securities for which quotation is sought	Not applicable				
40	Do the +securities rank equally in all respects from the date of allotment with an existing +class of quoted +securities? If the additional securities do not rank equally, please state: • the date from which they do • the extent to which they participate for the next dividend, (in the case of a trust, distribution) or interest payment • the extent to which they do not rank equally, other than in relation to the next dividend, distribution or interest payment	Not applicable				
41	Reason for request for quotation now Example: In the case of restricted securities, end of restriction period (if issued upon conversion of another security, clearly identify that other security)	Not applicable				
42	Number and +class of all +securities quoted on ASX (including the securities in clause 38)	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 50%; padding: 5px;">Number</th> <th style="width: 50%; padding: 5px;">+Class</th> </tr> <tr> <td style="height: 100px; vertical-align: top; padding: 5px;">Not applicable</td> <td style="height: 100px; vertical-align: top; padding: 5px;">Not applicable</td> </tr> </table>	Number	+Class	Not applicable	Not applicable
Number	+Class					
Not applicable	Not applicable					

+ See chapter 19 for defined terms.

Quotation agreement

1 +Quotation of our additional +securities is in ASX's absolute discretion. ASX may quote the +securities on any conditions it decides.

2 We warrant the following to ASX.

- The issue of the +securities to be quoted complies with the law and is not for an illegal purpose.
- There is no reason why those +securities should not be granted +quotation.
- An offer of the +securities for sale within 12 months after their issue will not require disclosure under section 707(3) or section 1012C(6) of the Corporations Act.

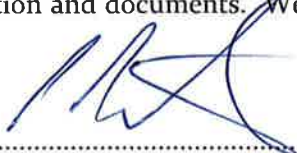
Note: An entity may need to obtain appropriate warranties from subscribers for the securities in order to be able to give this warranty

- Section 724 or section 1016E of the Corporations Act does not apply to any applications received by us in relation to any +securities to be quoted and that no-one has any right to return any +securities to be quoted under sections 737, 738 or 1016F of the Corporations Act at the time that we request that the +securities be quoted.
- If we are a trust, we warrant that no person has the right to return the +securities to be quoted under section 1019B of the Corporations Act at the time that we request that the +securities be quoted.

3 We will indemnify ASX to the fullest extent permitted by law in respect of any claim, action or expense arising from or connected with any breach of the warranties in this agreement.

4 We give ASX the information and documents required by this form. If any information or document not available now, will give it to ASX before +quotation of the +securities begins. We acknowledge that ASX is relying on the information and documents. We warrant that they are (will be) true and complete.

Sign here:


.....
(Director/Company secretary)

Date: 2 March 2012

Print name:

PAUL MCWILLIAMS
.....

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+ See chapter 19 for defined terms.

ATTACHMENT 1 – Terms of the Notes

+ See chapter 19 for defined terms.

Terms of Notes

1 Form, denomination and title

1.1 Form

The Notes are subordinated unsecured notes of the Issuer, constituted by the Trust Deed and issued in registered form by entry in the Register.

1.2 Denomination

Each Note is issued fully paid and with a principal amount of \$100.

1.3 Title and transfer

Title to all Notes will be determined, and the Notes may be transferred, as provided in the Trust Deed. Except as provided in the Trust Deed or required by law, the Issuer will not recognise any person other than the registered Holder as having any title to, or interest in, a Note.

1.4 Quotation

The Issuer must use all reasonable endeavours and furnish any documents, information and undertakings as may be reasonably necessary in order to ensure that the Notes are, and remain until redeemed by the Issuer, quoted on ASX.

1.5 Evidence of holdings

The Issuer must provide to each Holder such statements of the holdings of the Notes of the Holder as the Issuer is required to give under the Corporations Act, the Listing Rules and the ASX Settlement Operating Rules. Note certificates will not be issued unless the Issuer determines that certificates should be made available or are required to be made available by law.

1.6 Trust Deed

Holders are entitled to the benefit of, and are bound by the provisions of, the Trust Deed. The Trust Deed has been lodged with ASIC, and is available for inspection by Holders at the office of the Trustee.

1.7 No other rights

The Notes confer no rights on a Holder:

- (a) to vote at any meeting of shareholders of the Issuer;
- (b) to subscribe for new securities or to participate in any bonus issues of securities of the Issuer; or

- (c) to otherwise participate in the profits or property of the Issuer, except as set out in these Terms of Issue or the Trust Deed.

2 Status and ranking

- (a) The Notes are direct, unsecured debt obligations of the Issuer which rank equally without preference among themselves and are subordinated to other obligations of the Issuer in the manner specified in these Terms of Issue and the Trust Deed.
- (b) In the event of the Issuer being wound up, the rights of the Holders to be repaid the principal amount of the Notes and to be paid any accrued but unpaid interest (including any Outstanding Interest) (**Noteholder Claims**), will rank:
 - (1) junior to the rights and claims of all Senior Creditors of the Issuer;
 - (2) equally with each other and with the rights and claims of any Parity Creditors and holders of Parity Shares of the Issuer; and
 - (3) senior to the rights and claims of holders of the Issuer's shares other than Parity Shares.
- (c) For the purposes of giving effect to clause 2(b), in any winding up of the Issuer the Noteholder Claims:
 - (1) are subordinated and postponed and subject in right of payment to payment in full of the rights and claims of Senior Creditors of the Issuer, and may only be proved as a debt which is subject to and contingent upon prior payment in full of the rights and claims of Senior Creditors of the Issuer (including in respect of any entitlement of the Senior Creditors to interest on their claims in a winding up of the Issuer); and
 - (2) are further limited as to the amount provable in the winding up to the extent necessary to ensure that (after the satisfaction of the Noteholder Claims, as so limited) the holders of the Parity Shares receive a distribution payable in respect of their rights and claims as holders of the Parity Shares equal to the amount that would be payable to them if the Parity Amount in respect of such shares was a debt provable in the winding up which ranked equally with the Noteholder Claims.
- (d) A Holder may not set off any amounts owing by it to the Issuer against claims owing by the Issuer to the Holder in respect of the Notes except to the extent that the set off occurs by mandatory operation of law.
- (e) Each Holder by subscribing for or acquiring the Notes irrevocably agrees:
 - (1) that its claims in respect of the Notes are subject to the subordination provided for in this clause 2;
 - (2) not (in its capacity as a Holder) to exercise any voting rights as a creditor in the winding up of the Issuer until after all Senior Creditors have been paid in full or otherwise in a manner to defeat the subordination contemplated by this clause 2; and
 - (3) that the operation of this clause 2 is not affected by any act or omission of the Issuer or a Senior Creditor which might otherwise affect it at law or in equity or by the winding up of the Issuer.
- (f) Nothing in this clause 2:
 - (1) is intended to confer on any Senior Creditor any rights or any interest in any rights of the Holders; or

- (2) requires the consent of any Senior Creditor to any amendment of these Terms of Issue.

3 Interest

3.1 Interest

The Issuer must (subject to clause 3.4) pay interest on the principal amount of each Note from (and including) the Issue Date to (but excluding) its Redemption Date.

3.2 Interest rate

- (a) The Issuer must (subject to clause 3.4) pay interest on each Note during each Interest Period at the Interest Rate for that Interest Period.
- (b) The Interest Rate for each Interest Period is determined in accordance with the following formula:

Interest Rate = Market Rate + Margin

where:

Market Rate is the Bank Bill Rate on the first day of the Interest Period; and

Margin for an Interest Period commencing before the First Optional Redemption Date, the Initial Margin and for an Interest Period commencing on or after the First Optional Redemption Date, the Step-up Margin.

- (c) The Issuer must determine the Interest Rate for an Interest Period as soon as practicable after the start of the Interest Period.

3.3 Interest payments

- (a) Subject to clause 3.4, the Issuer must pay interest on each Note in respect of each Interest Period on the last day of the Interest Period.
- (b) The amount of interest payable on each Note for an Interest Period is calculated according to the formula:

Interest payment = $\frac{\text{Interest Rate} \times \$100 \times N}{365}$

where:

Interest Rate is the Interest Rate for the Interest Period; and

N is the number of days in the Interest Period.

- (c) The Issuer must determine the amount of interest to be paid on each Note for an Interest Period as soon as practicable after it determines the Interest Rate for the Interest Period and must promptly notify the Trustee and ASX of both those determinations. The notice must also specify that payment of interest is subject to the deferral condition in clause 3.4 of these Terms of Issue.

3.4 Deferral of interest payments

- (a) If the Mandatory Deferral Condition subsists on the 16th Business Day prior to an Interest Payment Date, the interest which would otherwise be due and payable on a Note on that Interest Payment Date (including any Deferred Interest Payment

arising from any prior operation of this clause 3.4(a)) is automatically deferred and does not become due and payable until the earliest of the following dates:

- (1) the first Interest Payment Date falling at least 16 Business Days after the first day on which the Mandatory Deferral Condition is no longer subsisting;
 - (2) the date which is the fifth anniversary of the date on which any of the then outstanding Deferred Interest Payments was initially deferred;
 - (3) the date on which the Trustee serves a notice pursuant to clause 5.2(a) in respect of an Event of Default; and
 - (4) the Maturity Date or any earlier Redemption Date for the Note.
- (b) If interest that would otherwise be due on an Interest Payment Date is deferred under this clause, the Issuer must notify the Trustee and ASX of that fact as soon as practicable and in any event not later than the 15th Business Day prior to the Interest Payment Date.
- (c) The deferral of any interest payment under clause 3.4(a) will not constitute a default by the Issuer for any purpose.

3.5 Interest on Deferred Interest Payments

- (a) The Issuer must pay interest on each Deferred Interest Payment from (and including) the Interest Payment Date on which the Deferred Interest Payment first arose to (but excluding) the date of actual payment.
- (b) Interest payable on a Deferred Interest Payment under clause 3.5(a):
- (1) accrues from time to time at the same rate as interest accrues on the principal amount of the Notes;
 - (2) compounds and is added to the Deferred Interest Payment (so as to thereafter itself bear interest under this clause) on each Interest Payment Date; and
 - (3) is payable at the same time as the Deferred Interest Payment.

3.6 Accrual and calculation of interest

- (a) Interest on the Notes (including interest on Deferred Interest Amounts) accrues on a daily basis and is to be calculated on the basis of a 365 day year and the number of days elapsed.
- (b) All calculations of interest will be rounded to four decimal places. Any fraction of a cent in the payment of any interest in respect of a Holder's aggregate holding of the Notes will be disregarded.

3.7 Issuer's determination final

The determination by the Issuer of all amounts, rates and dates required to be determined by it under these Terms of Issue is, in the absence of manifest error, final and binding on the Trustee, the Registrar and each Holder.

4 Redemption and purchase

4.1 Redemption on Maturity Date

The Issuer must redeem each Note on the Maturity Date at its principal amount plus any Outstanding Interest on the Note at that date unless:

- (a) the Note has been previously redeemed; or
- (b) the Note has been purchased by the Issuer and cancelled.

4.2 Early redemption at Issuer's election

(a) **(Early Redemption – Issuer's optional redemption)**

- (1) The Issuer may on the First Optional Redemption Date or any Interest Payment Date thereafter redeem all (but not part) of the Notes at their principal amount plus any Outstanding Interest by giving not less than ten Business Days' notice of such redemption to the Trustee, the Holders and ASX.
- (2) The Issuer may give notice under this clause before the First Optional Redemption Date provided the redemption date specified in the notice falls on a Business Day on or after the First Optional Redemption Date.

(b) **(Early Redemption - Early Redemption Event)**

- (1) If:
 - (A) a Change of Control Event occurs;
 - (B) a Capital Event occurs;
 - (C) an Accounting Event occurs; or
 - (D) a Tax Event occurs,the Issuer may redeem all (but not some) of the Notes at any time before the Maturity Date for:
 - (E) unless paragraph (F) applies, the principal amount of the Notes plus any Outstanding Interest; or
 - (F) in the case of a redemption before the First Optional Redemption Date pursuant to paragraph (B) or (C) above, an amount equal to 101% of the principal amount of the Notes plus any Outstanding Interest.
- (2) The Issuer may only redeem a Note under paragraph (b) if:
 - (A) the Issuer has given at least ten Business Days' (and no more than 45 Business Days') notice to the Trustee, the Holders and ASX;
 - (B) before the Issuer gives the notice under paragraph (D), the Trustee has received a certificate signed by two Directors of the Issuer that the event or circumstances constituting the relevant Early Redemption Event has or have occurred;
 - (C) the proposed Redemption Date nominated by the Issuer is an Interest Payment Date; and
 - (D) in the case of redemption under paragraph (C), the Redemption Date falls not later than the second Interest Payment Date falling after the later of:

- the date of publication of the first audited financial statements of the Issuer that have been prepared on the basis of the change to Current Accounting Practice that has given rise to the Accounting Event; and
 - the date on which the Accounting Event occurred.
- (c) **(Early Redemption – clean up option)**
- (1) If at any time the aggregate principal amount of the Notes Outstanding is less than 20% of the aggregate principal amount of the Notes originally issued, the Issuer may redeem all (but not some) of the Notes that remain outstanding at any time before the Maturity Date at their principal amount plus any Outstanding Interest.
- (2) The Issuer may only redeem a Note under paragraph (c) if:
- (A) the Issuer has given at least ten Business Days' (and no more than 45 Business Days') notice to the Trustee, the Holders and ASX; and
 - (B) the proposed Redemption Date nominated by the Issuer is an Interest Payment Date.
- (d) **(Effect of notice)**
- Notice under this clause 4.2 is irrevocable and on the day specified in the notice the Issuer must redeem each Note at its principal amount plus all Outstanding Interest. The accidental or inadvertent failure to give notice to an individual Holder will not invalidate notice under this clause.

4.3 Early redemption at Holders' election - Change of Control Event

- (a) If a Change of Control Event occurs, and the Issuer has not within 45 days after the occurrence of the Change of Control Event given notice under clause 4.2 electing to redeem the Notes, the Holder of a Note may require the Issuer to redeem all (but not some) of its Notes on the Change of Control Event Redemption Date at their principal amount plus any Outstanding Interest.
- (b) On or before the first day of the Change of Control Event Redemption Period, if the Issuer has not given notice under clause 4.2 electing to redeem the Notes, the Issuer must give notice of the Change of Control Event to the Trustee, the Holders and ASX (a **Change of Control Event Notice**). The Change of Control Event Notice will contain a statement informing Holders of their right to require redemption of the Notes pursuant to this clause 4.3 and will also specify:
- (1) the material facts constituting the Change of Control Event;
 - (2) the closing price of the Notes on the day that the Notes were trading on ASX immediately prior to the occurrence of the Change of Control Event;
 - (3) the form of the exercise notice (**Change of Control Event Redemption Exercise Notice**);
 - (4) the last day of the Change of Control Event Redemption Period; and
 - (5) such other information relating to the Change of Control Event as the Trustee may reasonably require.
- (c) To exercise the right under paragraph (a), a Holder must deliver to the Registrar (as agent for the Issuer) a duly completed and signed Change of Control Event Redemption Exercise Notice, in the form attached to the Change of Control Event Notice (or, if the Issuer does not give a Change of Control Event Notice to the Trustee, the Holders and ASX as required under this clause 4.3 on or before the

first day of the Change of Control Event Redemption Period, in such form containing sufficient details to enable the Issuer to redeem the Notes as may be approved by the Trustee) at any time in the Change of Control Event Redemption Period.

- (d) A Change of Control Event Redemption Exercise Notice is irrevocable, and the Issuer must redeem all Notes the subject of the Change of Control Event Redemption Exercise Notice on the relevant Change of Control Event Redemption Date for their principal amount plus any Outstanding Interest.

4.4 Failure to redeem

If the Issuer fails to redeem the Notes when due, interest will continue to accrue on the Notes at the rate applicable to them on their Redemption Date and must be paid to the relevant Holders upon redemption of the Notes.

4.5 Purchase

- (a) The Issuer and any of its Related Bodies Corporate may at any time on or after the fifth anniversary of the Issue Date purchase Notes in the open market or otherwise and at any price.
- (b) Notes purchased under this clause 4.5 may be held, resold or cancelled at the discretion of the purchaser (and, if the Notes are to be cancelled, the Issuer), subject to compliance with any applicable law or requirement of ASX.

4.6 Cancellation

Notes redeemed, or purchased by the Issuer or a Related Body Corporate which the Issuer elects to cancel, will be cancelled by the Issuer and may not be resold.

5 Events of Default

5.1 Events of Default

Each of the following is an Event of Default in relation to the Notes (whether or not it is in the control of the Issuer):

- (a) subject to clause 3.4, the Issuer fails to pay any principal or interest or other amounts due and payable in respect of the Notes or any of them in full within 30 days of its due date; or
- (b) an order is made (other than an order successfully appealed or permanently stayed within 30 days) by a State or Federal Court in the Commonwealth of Australia or a resolution is passed by the shareholders of the Issuer for the winding up of the Issuer (other than for the purposes of the Solvent Reorganisation of the Issuer).

5.2 Consequences of an Event of Default

- (a) If any Event of Default occurs which is continuing in relation to the Notes then the Trustee may by written notice to the Issuer declare the principal amount together with all Outstanding Interest applicable to each Note held by the Holders to be due and payable immediately or on such other date specified in the notice, or take any other action permitted by the Trust Deed.

- (b) The Trustee is not bound to take any of the actions referred to in paragraph (a) to enforce the obligations of the Issuer in respect of the Notes or any other action pursuant to or in connection with the Trust Deed or the Notes unless:
- (1) it shall have been so directed by a Holder Resolution or so requested in writing by the Holders of at least one-fifth of the aggregate of the principal amount of all Notes Outstanding (ignoring any Notes held by the Issuer or any of its Related Bodies Corporate and not cancelled); and
 - (2) it shall have been indemnified to its satisfaction (acting reasonably) in respect of all liabilities, costs, charges, damages and expenses (including any management time) which it may incur, as more fully set out in the Trust Deed.

5.3 Enforcement by Trustee, Holders

The rights of the Trustee and the Holders to take action against the Issuer to enforce the Notes or the Trust Deed are limited as provided in the Trust Deed.

5.4 Notification

The Issuer must promptly, after becoming aware of an Event of Default that is continuing, notify the Trustee and ASX of that Event of Default.

6 Payments

6.1 Payment of principal

Payments of principal in respect of a Note (together with all payments of interest due on redemption of the Note) will be made to the person registered at 10:00am on the Maturity Date or relevant Redemption Date (as applicable) as the Holder of that Note.

6.2 Payment of interest

Payments of interest in respect of a Note (other than payments of interest due on redemption of the Note) will be made to the person registered at the Record Date as the Holder of that Note.

6.3 Manner of payment

- (a) Amounts payable to a Holder in respect of the Notes will be paid by direct credit to an account nominated by the Holder at an Australian financial institution by notice to the Registry not less than eight calendar days before the date for payment.
- (b) Where a payment cannot be made in accordance with paragraph (a) because a Holder has not provided account details, or the Issuer determines that the account details are incorrect or the relevant account has been closed, the Issuer is under no obligation to make the relevant payment until correct account details have been provided.
- (c) Where a payment cannot be made in accordance with paragraph (a) on the due date because a financial institution is not open for business (or is not open for business in the place where the account is kept) on that date, the Issuer is under no obligation to make the relevant payment until the payment can be made.
- (d) The Holder is not entitled to any interest or other amount in respect of a delay in payment under paragraphs (b) or (c).

6.4 Payments net of deductions

- (a) The Issuer may deduct from any interest or other amount payable to a Holder the amount of any withholding or other tax, duty or levy required by law to be deducted in respect of such amount.
- (b) The Issuer shall pay the full amount required to be deducted to the relevant revenue authority within the time allowed for such payment without incurring penalty under the applicable law and shall, if required by any Holder, deliver to that Holder the relevant receipt issued by the revenue authority without unreasonable delay after it is received by the Issuer.

6.5 Payments generally

Payments in respect of the Notes will be made in accordance with the provisions relating to payment set out in clause 4.2 of the Trust Deed.

7 Further issues

The Issuer may from time to time, without the consent of the Holders, issue further notes under the Trust Deed on different terms so as to form part of a separate series of notes as the Notes, or issue any other bonds, notes, shares or any other form or type of securities, or incur or guarantee any indebtedness, upon such terms as it may think fit in its sole discretion.

8 Time limit for claims

A claim against the Issuer for a payment under the Notes is void unless made within five years after the date on which payment first became due.

9 Amendments

9.1 Amendments without consent

At any time, but subject to compliance with the Corporations Act and all other applicable laws, the Issuer and Trustee may without the consent of the Holders, amend these Terms of Issue or the Trust Deed if the Trustee is of the opinion that such alterations are:

- (a) of a formal or technical or minor nature;
- (b) made to cure any ambiguity or correct any manifest error;
- (c) made to increase the Maximum Level or reduce the Minimum Level;
- (d) necessary or expedient for the purpose of enabling the Notes to be:
 - (1) listed for quotation, or to retain quotation, on any stock exchange; or
 - (2) offered for subscription or for sale under the laws for the time being in force in any place,
 - (3) and (in the case of each of paragraph (1) and (2) above) the Issuer has provided to the Trustee an opinion of independent legal advisers of

recognised standing in New South Wales that such alteration is otherwise not materially prejudicial to the interests of Holders as a whole;

- (e) necessary to comply with:
 - (1) the provisions of any statute or the requirements of any statutory authority; or
 - (2) the ASX Listing Rules or the listing or quotation requirements of any stock exchange on which the Issuer may propose to seek a listing or quotation of the Notes,
 - (3) and (in the case of each of paragraph (1) and (2) above) the Issuer has provided to the Trustee an opinion of independent legal advisers of recognised standing in New South Wales that such alteration is otherwise not materially prejudicial to the interests of Holders as a whole; or
- (f) not, and not likely to become, taken as a whole and in conjunction with all other amendments to be made contemporaneously with that amendment, materially prejudicial to the interests of Holders generally,

and in any case, unless a Rating Agency Event has occurred, the Issuer confirms to the Trustee that it is satisfied that the amendments will not cause the Notes to cease to have a High Equity Content classification assigned to them by the Rating Agency.

9.2 Amendments with consent

At any time and from time to time, but subject to compliance with the Corporations Act and all other applicable laws, the Issuer may with the approval of the Trustee amend these Terms of Issue or the Trust Deed if a Special Resolution is passed in favour of such alteration.

10 Notices

Notices under these Terms of Issue are to be given in accordance with the provisions of the Trust Deed.

11 Governing law and jurisdiction

11.1 Governing law

The Notes and these Terms of Issue are governed by the laws of New South Wales, Australia.

11.2 Submission to jurisdiction

The Issuer, the Trustee and each Holder submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, Australia in connection with matters concerning the Notes or these Terms of Issue. The Issuer, Trustee and each Holder waive any right they have to object to an action being brought in those courts, or to claim that the action has been brought in an inconvenient forum, or to claim those courts do not have jurisdiction.

12 Definitions and interpretation

12.1 Defined Terms

The following defined terms apply in these Terms of Issue:

Accounting Event	occurs if there is a change in Current Accounting Practice after the Issue Date and the Rating Agency confirms publicly or in writing to the Issuer that as a result of the change the Mandatory Deferral Condition no longer satisfies the criteria for the Notes to receive a High Equity Content classification under the methodology applied by the Rating Agency.
Adjusted Net Debt	in relation to a Testing Date, total current and non-current interest bearing liabilities, adjusted to remove any fair value adjustments on borrowings in hedge relationships, less cash and cash equivalents, all as disclosed in the more recent of: 1 the audited full year consolidated financial statement of the Issuer (and its controlled entities) for the full year ended on the immediately prior 30 June; and 2 the reviewed consolidated interim financial statements of the Issuer (and its controlled entities) for the half year ended on the immediately prior 31 December, or, if not disclosed in the audited consolidated financial statements or reviewed consolidated interim financial statements of the Issuer (and its controlled entities), as otherwise publicly disclosed to Holders.
ASIC	the Australian Securities and Investments Commission.
ASX	ASX Limited (ABN 98 008 624 691) or the market it operates.
ASX Settlement	ASX Settlement Pty Ltd (ABN 49 008 504 532).
ASX Settlement Operating Rules	the settlement operating rules of ASX Settlement from time to time.
Australian Tax Act	the <i>Income Tax Assessment Act 1936</i> (Cth) and, where applicable, the <i>Income Tax Assessment Act 1997</i> (Cth).
Bank Bill Rate	for the relevant Interest Period, the average mid rate for Bills having a tenor of three months as displayed on the "BBSW" page of the Reuters Monitor System on the first Business Day of the Interest Period. However, if the average mid rate is not displayed or the Issuer determines that there is an obvious error in that rate, Bank Bill Rate means the rate determined by the Issuer in good faith at approximately 10:30am on that day having regard, to the extent possible, to the rates otherwise bid and offered for bank accepted Bills of that tenor at or around that time (including any displayed on the

"BBSY" or "BBSW" page of the Reuters Monitor System).

Bill has the meaning it has in the *Bills of Exchange Act 1909* (Cth) and a reference to the acceptance of a Bill is to be interpreted in accordance with that Act.

Business Day has the same meaning as in the Listing Rules, but where used in the definitions of "Bank Bill Rate", "Change of Control Event Redemption Date", "First Optional Redemption Date", "Interest Payment Date", "Maturity Date" and in clause 4.2(a)(2), excludes a day on which major trading banks are not open for business in Sydney.

Capital Event occurs if the Notes cease to have High Equity Content as a result of a change occurring after the Issue Date in the methodology applied by the Rating Agency.

Change in Law

- 1 any amendment to, clarification of, or change (including any announced prospective change), in the laws or treaties or any regulations of Australia or any political subdivision or taxing authority of Australia affecting taxation;
- 2 any judicial decision, official administrative pronouncement, published or private ruling, regulatory procedure, notice or announcement (including any notice or announcement of intent to adopt such procedures or regulations) (**Administrative Action**); or
- 3 any amendment to, clarification of, or change in, an Administrative Action that provides for a position that differs from the current generally accepted position, in each case, by any legislative body, court, governmental authority or regulatory body, irrespective of the manner in which such amendment, clarification, change or Administrative Action is made known.

Change of Control Event occurs if after the Issue Date:

- 1 any person makes a takeover bid (as defined in the Corporations Act) to acquire some or all of the Issuer's ordinary shares and the offer is, or becomes, unconditional and the offeror is in, or becomes in, the position to cast more than one half of the maximum number of votes that may be cast at a general meeting of the Issuer;
- 2 a court makes an order to approve a scheme of arrangement under Part 5.1 of the Corporations Act which, when implemented, will result in a person being in the position to cast more than one half of the maximum number of votes that may be cast at a general meeting of the Issuer; or
- 3 a person together with its associates (as defined in section 12 of the Corporations Act) acquires or comes to hold legally or beneficially more than 50% of the voting shares (as defined in the Corporations Act) in the capital of the Issuer,

(such other person or person together with its associates being a **Relevant Person**), provided that a Change of Control Event will not have occurred if the persons holding, directly or indirectly, more than 50% of the voting shares of the Relevant Person are also, or

immediately prior to the event which would otherwise constitute a Change of Control Event were, persons who held, directly or indirectly, more than 50% of the voting shares of the Issuer.

Change of Control Event Redemption Date	the date which is 45 days after the expiry of the Change of Control Event Redemption Period or, if that date is not a Business Day, the next Business Day.
Change of Control Event Redemption Period	the period beginning on the date falling 45 days after the occurrence of the Change of Control Event and ending on the date which is 45 days from that date.
Corporations Act	<i>Corporations Act 2001</i> (Cth).
Credit Rating	in relation to the Issuer at any time, the issuer corporate credit rating granted by the Rating Agency or (if applicable) a Subsequent Ratings Agency at that time to the Issuer. For this purpose, "Subsequent Ratings Agency" means, where the Rating Agency is no longer assigning a corporate credit rating for the Issuer for any reason, a ratings agency identified by the Issuer, being of equivalent market standing and capable of assigning a corporate credit rating in respect of the Issuer.
Current Accounting Practice	at a relevant time, means accounting principles and practices applying by law and otherwise generally accepted in Australia at that time, consistently applied.
Deferred Interest Payment	at any time, any interest deferred under clause 3.4(a) which has not been paid at that time.
Director	a Director of the Issuer.
Early Redemption Date	means the date on which the Note is to be redeemed in accordance with clause 4.2.
Early Redemption Event	a Capital Event, Change of Control Event or Tax Event.
Event of Default	has the meaning in clause 5.1.
First Optional Redemption Date	8 June 2019, or, if that date is not a Business Day, the next Business Day.

High Equity Content	in relation to securities, a "high equity content" classification assigned to the securities by the Rating Agency in the sense used by the Rating Agency which is the same or a higher category of equity credit as was attributed to the Notes at the Issue Date.
Holder	in relation to any Note, a person whose name is for the time being registered in the Register as the holder of that Note.
Holder Resolution	1 a resolution passed at a meeting of Holders duly called and held under the Meeting Provisions: • by more than 50% of the persons voting on a show of hands (unless the second bullet point of this paragraph 1 applies); or • if a poll is duly demanded, then by a majority consisting of more than 50% of the votes cast; or 2 if the meeting is by postal ballot or written resolution, then by Holders representing (in aggregate) more than 50% of the principal amount of all of the outstanding Notes.
Initial Margin	the rate expressed as a percentage per annum determined by the Issuer on the basis of the bids made under the bookbuild process as described in the prospectus issued by the Issuer on or about 28 February 2012 in respect of the Notes.
Interest Cover Ratio	means, in relation to a Testing Date, the ratio of Operating EBITDA to Relevant Net Interest Paid.
Interest Payment Dates	in relation to a Note: 1 each 8 June, 8 September, 8 December and 8 March, commencing on 8 June 2012 and falling on or before the Redemption Date of the Note; and 2 the Maturity Date (unless earlier redeemed or cancelled in accordance with these Terms of Issue), or, if such date is not a Business Day, the following Business Day.
Interest Period	in respect of a Note: 1 the period from (and including) the Issue Date to (but excluding) the first Interest Payment Date; and 2 thereafter, the period from (and including) each Interest Payment Date to (but excluding) the first to occur of: • the next Interest Payment Date; and • the Redemption Date in respect of that Note.
Interest Rate	for any Interest Period, the Interest Rate determined in accordance with clause 3.

Issue Date	the date of issue of the Notes.
Issuer	AGL Energy Limited (ABN 74 115 061 375).
Listing Rules	the listing rules of ASX, as amended or replaced from time to time.
Leverage Ratio	means, in relation to a Testing Date, the ratio of Relevant Net Debt (divided by two) to Operating EBITDA.
Mandatory Deferral Condition	starts to subsist on a Testing Date (the Commencing Testing Date) if: 1 the Interest Cover Ratio is less than the Minimum Level; or 2 the Leverage Ratio is above the Maximum Level and was above the Maximum Level on the immediately preceding Testing Date and continues to subsist until the next Testing Date (the Ending Testing Date) on which: 3 the Interest Cover Ratio is at or above the Minimum Level; and 4 if the Mandatory Deferral Condition commenced under paragraph 2, or the Leverage Ratio has exceeded the Maximum Level on any two consecutive Testing Dates on or after the Commencing Testing Date, the Leverage Ratio is at or below the Maximum Level and was at or below the Maximum Level on the immediately preceding Testing Date.
Maturity Date	8 June 2039, or, if that date is not a Business Day, the next Business Day.
Maximum Level	4.0 times.
Meeting Provisions	The provisions for meetings of the Holders set out in schedule 2 of the Trust Deed.
Minimum Level	3.0 times.
Net Interest Paid	in relation to a Testing Date, the amount of interest paid, less the amount of interest received, by the Issuer (and its controlled entities) for the more recent of: 1 the six month period ended on the immediately prior 30 June, as calculated by reference to the audited full year consolidated financial statement of the Issuer (and its controlled entities) for the full year ended on that date, less the equivalent items in the reviewed consolidated interim financial statements of the Issuer (and its controlled entities) for the half year ended on the prior 31 December; and

- 2 the six month period ended on the immediately prior 31 December, as reported in the reviewed consolidated interim financial statements of the Issuer (and its controlled entities) for that period,

or, if not disclosed in the audited full year consolidated financial statement or reviewed consolidated interim financial statements of the Issuer (and its controlled entities), as otherwise publicly disclosed to Holders.

Noteholder Claims has the meaning in clause 2(b).

Notes the redeemable subordinated notes issued or to be issued by the Issuer on these Terms of Issue.

Offshore Associate an associate (as defined in section 128F of the Australian Tax Act) of the Issuer that is either:

- 1 a non-resident of Australia which does not acquire the Notes in carrying on a business at or through a permanent establishment in Australia; or
- 2 a resident of Australia that acquires the Notes in carrying on a business at or through a permanent establishment outside Australia.

Operating EBITDA in relation to a Testing Date, the underlying earnings before interest, tax, depreciation and amortisation of the Issuer (and its controlled entities) for the more recent of:

- 1 the six month period ended on the immediately prior 30 June, as calculated by reference to the note setting out the underlying results for the Issuer (and its controlled entities) contained within the audited full year consolidated financial statement of the Issuer (and its controlled entities) for the full year ended on that date, less the equivalent item in the reviewed consolidated interim financial statements of the Issuer (and its controlled entities) for the half year ended on the prior 31 December; and
- 2 the six month period ended on the immediately prior 31 December, as reported in the notes setting out the underlying results for the Issuer (and its controlled entities) contained within the reviewed consolidated interim financial statements of the Issuer (and its controlled entities) for that period,

or, if not disclosed in the audited full year consolidated financial statement or reviewed consolidated interim financial statements of the Issuer, as otherwise publicly disclosed to Holders.

Outstanding in relation to a Note means the Note has not been redeemed or repurchased and cancelled.

Outstanding Interest in relation to a Note at any time, the aggregate of:

- 1 any Deferred Interest Payment in respect of that Note at that time; and

- 2 any other accrued and unpaid interest in respect of that Note at that time (including any interest accrued or compounded under clause 3.5).

Parity Amount	in respect of a share is a reference to the maximum amount the holder of such a share would be entitled to receive (whether by way of return of capital, participation in any profits or surplus, payment of any debt due to the holder in its capacity as a member or otherwise) in respect of such share assuming the Issuer had sufficient assets to satisfy that entitlement after satisfaction of all claims ranking in priority to it.
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Parity Creditors	any unsecured, subordinated creditor of the Issuer whose claim is expressed to rank equally with the Issuer's obligations under the Notes.
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Parity Shares	preference shares in the capital of the Issuer that are expressed to rank equally with the Notes for return of capital.
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Rating Agency	Standard & Poor's (Australia) Pty Limited (ABN 62 007 324 852) or its successors.
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Rating Agency Event	1 receipt by the Issuer of advice in writing from the Rating Agency that as a result of a change in the methodology applied by the Rating Agency the Notes no longer satisfy the criteria for receiving a High Equity Content classification from the Rating Agency; or 2 the Issuer ceasing to hold a Credit Rating.
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Record Date	means for payment of interest: 1 the date which is eight calendar days before the Interest Payment Date upon which such interest actually falls due for payment; or 2 such other date as is determined by the Directors in their absolute discretion and communicated to ASX not less than seven Business Days before the specified Record Date, or in either case such other date as may be required by ASX.
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Redemption Date	in respect of any Note, the date for redemption of that Note in accordance with the Terms of Issue, including any Early Redemption Date or the First Optional Redemption Date.
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Register	the register of Holders (established and maintained in accordance with the Trust Deed) and, where appropriate, includes: 1 a sub-register conducted by or for the Issuer pursuant to the Corporations Act, the Listing Rules or ASX Settlement Operating Rules; and 2 any branch register.
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Registrar	Link Market Services Limited (ABN 54 083 214 537) in its capacity as registrar of the Notes or such other person appointed by the Issuer to maintain the Register on the Issuer's behalf from time to time.
Related Body Corporate	has the meaning given to it in the Corporations Act.
Relevant Net Debt	Adjusted Net Debt: - less 100% of the outstanding balance of Notes; and - less the Relevant Percentage of the outstanding balance of each other Relevant Security (if any), in each case as expressed in Australian dollars on the same basis and for the same balance date as applies to the determination of Adjusted Net Debt and, if not disclosed in the audited full year consolidated financial statement or reviewed consolidated interim financial statements of the Issuer (and its controlled entities), as otherwise publicly disclosed to Holders.
Relevant Net Interest Paid	Net Interest Paid: - less 100% of the interest paid on the Notes; and - less the Relevant Percentage of the interest paid on each other Relevant Security, in each case for the same period and determined on the same basis as applies to the determination of Net Interest Paid and, if not disclosed in the audited full year consolidated financial statement or reviewed consolidated interim financial statements of the Issuer (and its controlled entities), as otherwise publicly disclosed to Holders.
Relevant Percentage	means at any time, the percentage of equity credit attributed by the Rating Agency to a Relevant Security at that time.
Relevant Security	means shares in the capital of, or any indebtedness in the form of or represented by notes, bonds, debentures or other securities issued by, the Issuer (or any of its controlled entities) other than the Notes that: - is included in Adjusted Net Debt; and - has been attributed with equity credit by the Rating Agency.
Senior Creditor	all creditors (including subordinated creditors) of the Issuer other than the Trustee (in respect of the principal of and interest on the Notes), the Holders, any Parity Creditors and the holders of the Issuer's shares.
Solvent Reorganisation	with respect to the Issuer, a solvent winding-up, deregistration, dissolution, scheme of arrangement or other reorganisation of the Issuer solely for the purposes of a consolidation, amalgamation, merger or reconstruction, the terms of which have been approved by

the shareholders of the Issuer or by a court of competent jurisdiction, under which the continuing or resulting corporation effectively assumes the obligations of the Issuer under the Notes and the Trust Deed.

Special Resolution	1 a resolution passed at a meeting of the Holders duly called and held under the Meeting Provisions: • by at least 75% of the persons voting on a show of hands (unless the second bullet point of this paragraph 1 applies); or • if a poll is duly demanded, then by a majority consisting of at least 75% of the votes cast; or 2 a resolution passed by postal ballot or written resolution by Holders representing (in aggregate) at least 75% of the principal amount of all of the outstanding Notes.
Step-up Margin	the Initial Margin plus an additional 0.25% per annum.
Tax	means any tax, levy, impost, deduction, charge or withholding or duty (including stamp duty and transaction duty) imposed by any authority together with any related interest, penalties and expenses in connection with them.
Tax Event	occurs where, on or after the Issue Date, the Issuer receives an opinion of a nationally recognised legal counsel or other tax adviser in a relevant tax jurisdiction, experienced in such matters that, as a result of a Change in Law after the Issue Date, payment of interest would no longer, or within 90 calendar days of the date of that opinion will no longer, be fully deductible (or the entitlement to make such deduction shall be materially reduced) by the Issuer for the purposes of the Issuer's Australian tax purposes or the tax purposes of any other relevant tax jurisdiction.
Testing Date	any date on which the Issuer first releases to the public its audited full year consolidated financial statement in respect of a reporting period ended on 30 June or its reviewed consolidated interim financial statements in respect of a reporting period ended on 31 December of any given year.
Terms of Issue	these terms and conditions of issue.
Trust Deed	the Trust Deed dated on or about 28 February 2011 between the Issuer and the Trustee as amended from time to time.
Trustee	Australian Executor Trustees Limited (ABN 84 007 869 794).

