

1. INTERPRETATION, RULINGS, WAIVERS

1.1 APPLICATION AND INTERPRETATION

1.1.1 Application: Except where the context requires otherwise, the Rules apply as from 1 January 1999.

1.1.2 Definitions: In the Rules, unless the context requires otherwise:

“Advertisement” has the meaning given in the Securities Act 1978 and includes a statement or report made in accordance with either of sections 5(2CA) or 3(7) of that Act.

“Advisor” has the meaning given in the NZX Participant Rules.
(Inserted 1/5/04)

“Appraisal Report” means an appraisal report complying with Rule 1.2.

“Associated Person” has the meaning given in Rule 1.3.1.

“ASX” means Australian Stock Exchange Limited and includes its successors.
(Inserted 1/5/04)

“Audit Committee” means a committee of the Board formed in accordance with Rule 3.6.
(Inserted 29/10/03)

“Authority to Act” means authority held by a Primary Market Participant from NZX without which the Primary Market Participant may not act in connection with an issue of Securities.
(Amended 1/5/04)

“Bank” means a registered bank in terms of the Reserve Bank of New Zealand Act 1989, a bank having recognition comparable to that of a registered bank under the law of Australia, the United States of America, Japan or the United Kingdom, or any other financial institution approved by NZX.

“Board” means the board of Directors of an Issuer. *(Inserted 29/10/03)*

“Business Day” means a day on which NZX is open for trading.

“**Chief Executive**” means any person occupying the position of chief executive of the Issuer concerned by whatever name called.

(Inserted 29/10/03)

“**Class**” means a class of Securities having identical rights, privileges, limitations and conditions, and includes or excludes Securities which NZX in its discretion deems to be of or not of that Class.

“**Code Company**” means an Issuer which is a code company as defined in the Takeovers Code.

“**Common Shareholder Number**” or “**CSN**” has the meaning given in the NZX Participant Rules.

(Inserted 1/5/04)

“**Constitution**” means, in relation to an Issuer, its constitution, or other constituent documents comprising its constitution .

(Amended 1/5/04)

“**Convert**” in respect of a Security, means to convert that Security into, or exchange that Security for, a Security of a different sort, whether at the option of the holder, or of the Issuer, or otherwise, or to subscribe for or obtain a Security of a different sort pursuant to a right conferred by the first mentioned Security. “Conversion” and “Convertible” have corresponding meanings.

“**Corporate Governance Best Practice Code**” means the code set out in Appendix 16.

(Inserted 29/10/03)

“**Debt Security**” means a Security having any interest in or right to be paid money that is, or is to be, deposited with, lent to, or otherwise owing by, any person (whether or not the interest or right is secured by a charge over any property) and includes a debenture, debenture stock, bond, note, certificate of deposit and any other Security which NZX in its sole discretion declares by a Ruling to be a Debt Security but does not include any Security that NZX in its sole discretion declares by a Ruling not to be a Debt Security.

(Amended 1/5/04)

“**Delivery and Settlement Participant**” has the meaning given in the NZX Participant Rules.

(Inserted 1/5/04)

“**Director**” means:

- (a) in relation to a company as defined in the Companies Act 1993, any person occupying the position of director of the company, by whatever name called;
- (b) in relation to any other entity, any person occupying a position in that entity that is comparable with that of a director of a company as defined in (a). *(Amended 1/5/04)*

“Disqualifying Relationship” means any direct or indirect interest or relationship that could reasonably influence, in a material way, the Director’s decisions in relation to the Issuer.

Without limiting the definition, a Director shall be deemed to have a Disqualifying Relationship in the following circumstances:

- (a) the Director is a Substantial Security Holder of the Issuer or an Associated Person of the Substantial Security Holder (other than solely as a consequence of being a Director of the Issuer); or
- (b) where:
 - (i) the Director has a relationship (other than in his or her capacity as a Director of the Issuer) with the Issuer or a Substantial Security Holder of the Issuer; or
 - (ii) an Associated Person of the Director has a relationship with the Issuer or a Substantial Security Holder of the Issuer; and
 - (iii) by virtue of the relationship in (b)(i) or (b)(ii) that Director or any Associated Person of that Director is likely to derive, in the current financial year of the Issuer, a substantial portion of his, her or its annual revenue during such financial year.

1. In considering whether a Director has a Disqualifying Relationship the Issuer shall consider all the circumstances including the history of the relationship between the Issuer and the Director and/or any plans the Issuer may have concerning the relationship with the Director on an ongoing basis.

2. **NZX considers that generally 10% of a Director’s or an associated Person of a Director’s revenue will be a “substantial portion” of that Director’s or Associate Person’s annual revenue for the purposes of this definition.** *(Inserted 29/10/03)*

“**Dual Listed Issuer**” means an Issuer incorporated in Australia which is admitted and not removed from the ASX’s Official List and which is also listed on the NZX, otherwise than as an Overseas Listed Issuer and in respect of which both NZX and ASX are Home Exchanges. *(Inserted 1/5/04)*

“**Equity Security**” means a Security:

- (a) which confers a present or future right to participate in the assets of an Issuer after payment of claims payable under section 313(1) of the Companies Act 1993 or, in the case of an Issuer that is not a company, after paying preferential or other creditors; or *(Amended 1/5/04)*
- (b) which confers a present or future right to participate in the income or profits of an Issuer; or *(Amended 1/5/04)*
- (c) which carries, or will in future carry, a Vote, or a right to participate in the ultimate control of an Issuer; or
- (d) which may be Converted into a Security of the nature referred to in (a) to (c) without:
 - (i) the agreement of the holder; or
 - (ii) approval of the precise terms and conditions of issue of the Security of the nature referred to in (a) to (c) on Conversion in accordance with Rule 7.3.1, *(Amended 1/5/04)*

and includes any other Security which NZX in its sole discretion declares by a Ruling to be an Equity Security but does not include any Security that NZX in its sole discretion declares by a Ruling not to be an Equity Security. *(Amended 1/5/04)*

1. **A Convertible Security may be both a Debt Security and an Equity Security for the purposes of the Rules. However NZX will generally determine, before or after Quotation, that where:**

- (a) a Convertible Security (such as a capital note) is only Convertible with the agreement of the Issuer, or
- (b) the Securities into which the Convertible Security may Convert are not presently Quoted, or
- (c) the Issuer of the Convertible Security is a Subsidiary of the Issuer of the Securities into which a Convertible Security will Convert,

the Convertible Security shall be deemed to be a Debt Security and not an Equity Security for the purposes of the Rules. NZX may attach certain terms and conditions as NZX considers appropriate to a Ruling that a Convertible Security is a Debt Security, including requiring the Security to be issued, or the Conversion rights approved, as if Rule 7.3 applied, before the Security can be converted (see also Rule 7.3.8(b)), and may also require the Offering Document for the Security to contain disclosures that would be required for an issue of Equity Securities (for example, about the Issuer's dividend policy). *(Inserted 1/5/04)*

“Executive Director” means a Director who is also an employee of the Issuer. *(Inserted 1/5/04)*

“Ex Date” in relation to a benefit, means the first Business Day after the Record Date for that benefit.

“Head Security” means, in relation to any benefit, the Security the holding of which immediately before the Ex Date, confers the entitlement to the benefit.

“Home Exchange” means, in respect of any Issuer, NZX, or any other Recognised Stock Exchange which NZX is satisfied has primary jurisdiction in relation to listing requirements for the Issuer and quotation of its Securities. In respect of Issuers subject to a declaration under Rule 5.1.6(a) the term includes NZX, whether or not the Issuer concerned retains another Home Exchange.

“Independent Director” means a Director who is not an executive of the Issuer and who has no Disqualifying Relationship. *(Inserted 29/10/03)*

“**Investment Statement**” has the meaning given in section 38C of the Securities Act 1978.

“**ISIN**” means International Security Identification Number.

International Security Identification Numbers are allocated by NZX and the Reserve Bank of New Zealand for Equity and Debt Securities respectively. Numbers may be obtained on application to NZX or the Reserve Bank.

“**Issuer**” means any person which is or has been Listed and, where applicable, has the extended meaning given in Rule 1.1.5.

“**Listing**” means, in respect of any person (or Managed Fund), the entering into between that person (or, in the case of a Managed Fund, the Manager on behalf of the Managed Fund) and NZX of a listing agreement, whereby that person (or the Manager of that Managed Fund) agrees to comply with the Rules and NZX agrees to administer that person’s (or Managed Fund’s) listing on NZX and “Listed” and “List” have corresponding meanings. *(Amended 1/5/04)*

“**Managed Fund**” means:

- (a) a unit trust established under the Unit Trusts Act 1960; or
- (b) a group investment fund established under section 29 of the Trustee Companies Act 1967, section 42A of the Public Trust Office Act 1957 or section 63 of the Public Trust Act 2001; or
- (c) any other financial product that NZX declares by a Ruling to be a managed fund. *(Inserted 1/5/04)*

“**Manager**” in relation to a Managed Fund means the person:

- (a) on whose behalf any money paid in consideration of the allotment of the Managed Fund is received; or
- (b) with a substantial obligation to Security holders to act in the continuing administration or management of the scheme to which the Managed Fund relates; or

(c) to whom both (a) and (b) apply,

but does not include a person who is a Managing Fund trustee in relation to the Managed Fund if the person acts in the continuing administration or management of the scheme to which the Managed Fund relates solely in the person's capacity as a Managed Fund trustee.

For the purposes of this definition "**Managing Fund Trustee**" means a person appointed as a trustee in respect of a Managed Fund.

(Inserted 1/5/04)

"**Material Information**" in relation to an Issuer is information that:

- (a) a reasonable person would expect, if it were generally available to the market, to have a material effect on the price or value of Quoted Securities of the Issuer; and
- (b) relates to particular securities, a particular Issuer, or particular Issuers, rather than to securities generally or Issuers generally.

Without limiting what information a reasonable person would expect to have a material effect on the price or value of Quoted Securities of an Issuer, for the purposes of this definition, a reasonable person would be taken to expect information to have a material effect on the price or value of quoted Securities of an Issuer if the information would, or would be likely to, influence persons who commonly invest in securities in deciding whether to buy or sell those Quoted Securities.

For the purposes of this definition information is **generally available to the market if:**

- (c) it is information that:
 - (i) has been made known in a manner that would, or would be likely to, bring it to the attention of persons who commonly invest in relevant securities; and
 - (ii) since it was made known, a reasonable period for it to be disseminated among those persons has expired; or

- (d) it is likely that persons who commonly invest in relevant securities can readily obtain the information (whether by observation, use of expertise, purchase from other persons, or any other means); or
- (e) it is information that consists of deductions, conclusions, or inferences made or drawn from either or both of the kinds of information referred to in paragraphs (c) and (d).

In this definition, **relevant securities** means securities of a kind the price or value of which might reasonably be expected to be affected by the information.

(Inserted 1/12/02)

“Member of the Public” means, in relation to an Issuer and/or Securities of an Issuer, any person other than:

- (a) a person who holds, or who is one of a group of Associated Persons who together hold, 10% or more of a Class of Securities; or
- (b) a person who has, or who is one of a group of Associated Persons who together have, the power (whether contingent or not) to appoint one or more Directors of the Issuer; or
- (c) any other person or member of a class of persons, whom NZX in its discretion declares not to be a Member of the Public for the purposes of the Rules.

“Minimum Holding” means a parcel or number of Securities as set out in appendix 2.

“Mining Issuer” has the meaning given in Rule 10.10.

“Non-Standard” means a designation by the NZX pursuant to Rule 5.1.4.

“NZDX” means the debt security market operated by NZX.

(Inserted 1/5/04)

“NZSX” means the main board equity security market operated by NZX.

(Inserted 1/5/04)

“**NZX**” means New Zealand Exchange Limited and includes its successors and assigns and as the context permits includes any duly authorised delegate of NZX (including NZX Discipline). *(Inserted 1/5/04)*

“**NZX Discipline**” means the body constituted by NZX under the NZX Discipline Rules and where the context permits includes the chairperson, deputy chairperson, any division or duly authorised delegate of NZX Discipline. *(Inserted 1/5/04)*

“**NZX Discipline Rules**” means the NZX Discipline Rules made by NZX from time to time. *(Inserted 1/5/04)*

“**NZX Participant Rules**” means the NZX Participant Rules made by NZX from time to time. *(Inserted 1/5/04)*

“**NZX Regulation Personnel**” means any person for the time being holding appointment, or designated, by NZX as NZX Regulation Personnel. *(Amended 1/5/04)*

“**Offering Document**” means an Investment Statement or a Profile. *(Amended 1/5/04)*

“**Official List**” has the meaning given in the ASX Listing Rules. *(Inserted 1/5/04)*

“**Option**” means an option to acquire a Security.

“**Ordinary Resolution of the Issuer**” means (subject to Rule 1.1.7) a resolution passed by a simple majority of Votes of holders of Securities of the Issuer which carry Votes, entitled to vote and voting.

“**Organising Participant**” means the Primary Market Participant which has undertaken the responsibilities of that position in respect of a Listing procedure, issue, Offering Document, or Advertisement. *(Amended 1/5/04)*

“**Overseas Listed Issuer**” has the meaning given in Rule 5.1.1.

“**Primary Market Participant**” has the meaning given in the NZX Participant Rules. *(Inserted 1/5/04)*

“**Profile**” means a document with the content required by Rule 7.1.3.
(Amended 1/5/04)

“**Prospectus**” means a prospectus within the meaning of the Securities Act 1978.

“**Quotation**” means, in respect of a Class of Securities of an Issuer, the granting of a right for Trading Participants to quote bids and offers for that Class of Security on NZX. “Quote” and “Quoted” have corresponding meanings.
(Amended 1/5/04)

“**Recognised Stock Exchange**” means a stock exchange approved by NZX from time to time as enforcing rules, procedures and requirements sufficiently similar to those of NZX to justify classification as a Recognised Stock Exchange for the purposes of the Rules.

Full members of the World Federation of Exchanges (WFE) are recognised for this purpose.
(Amended 29/10/03)

“**Record Date**” means the time fixed by an Issuer for the determination of the Security holders to whom an entitlement, right or obligation relating to the Securities of that Issuer shall apply.
(Amended 1/5/04)

“**Related Company**” has the meaning given in section 2(3) of the Companies Act 1993 (read together with section 2(4) of that Act).

“**Relevant Interest**” has the meaning given in sections 5 and 6 of the Securities Markets Act 1988.
(Inserted 13/3/00)

“**Renounceable**” in relation to a Right or offer of Securities means a Right or offer that is transferable by any holder for the time being to another person (whether or not an existing holder of any Securities to which the Right or offer relates).

“**Right**” means any right to acquire any Security or benefit of any kind, whether conditional or not, and whether Renounceable or not.

“**Rules**” means these NZSX and NZDX Listing Rules as amended from time to time.
(Amended 1/5/04)

“Ruling” means any decision or determination by NZX as to the meaning or interpretation or application of the Rules and includes any ruling, waiver, or revocation of a waiver given pursuant to Rules 1.4, 1.6, or 1.7.

(Amended 1/5/04)

“Security” means any interest or right to participate in any capital, assets, earnings, royalties, or other property of any person and includes:

- (a) any renewal or variation of the terms or conditions of any existing security;
- (b) any Debt Security; and
- (c) any Option or Right.

“Security Agreement” has the meaning given in Rule 7.9.1(a).

(Inserted 13/3/00)

“Shareholders Funds of the Issuer” means, in relation to an Issuer, the amount disclosed as equity (whether described as equity, shareholders funds, or otherwise) by the most recent published financial statements of the Issuer or, if the Issuer has Subsidiaries, the most recent published group financial statements of the Issuer and its Subsidiaries, provided that if at any time at which shareholders funds of the Issuer is required to be determined:

- (a) the Issuer has not published financial statements; or
- (b) since the date of the most recent published statements there has been a material decline in the equity of the Issuer or, if the Issuer has Subsidiaries, of the consolidated equity of the Issuer and its Subsidiaries;

then shareholders’ funds of the Issuer at that time shall be determined by reference to the position which would be disclosed if financial statements were prepared at that time.

“Special Division” means that division of NZX Discipline constituted under appendix 3 of the NZX Discipline Rules.

(Inserted 1/5/04)

“Statement” means a statement of holding of Securities complying with Rule 11.2.

“**Subsidiary**” means:

- (a) a subsidiary within the meaning of section 5 of the Companies Act 1993 (read together with sections 6 to 8 inclusive of that Act); and
- (b) an entity treated as a subsidiary or in substance subsidiary within the meaning of any financial reporting standard approved in terms of section 27(3) of the Financial Reporting Act 1993. *(Amended 1/5/04)*

“**Substantial Security Holder**” has the meaning given in section 2 of the Securities Markets Act 1988. *(Inserted 29/10/03)*

“**Takeovers Code**” means the takeovers code recorded in the Takeovers Code Approval Order 2000.

“**Trading Participant**” has the meaning given in the NZX Participant Rules. *(Inserted 1/5/04)*

“**Treasury Stock**” means shares in an Issuer which is a company registered under the Companies Act 1993, which have been acquired by that Issuer and are held by that Issuer as treasury stock pursuant to provisions of that Act which enable treasury stock to be held by a company and includes shares held by a Subsidiary of a company other than in accordance with section 82(6) of the Companies Act 1993.

“**Trust Deed**” means a trust deed governing the issue of Securities which are Quoted or intended to be Quoted.

“**Vendor Securities**” means Equity Securities which are issued by an Issuer at or about the time of its Listing, or of the first Quotation of Securities of the same Class as those Securities, or which are issued with a view to such Listing or Quotation, and which are issued as consideration for (whether directly or indirectly), or in connection with:

- (a) the acquisition by the Issuer or any Subsidiary of the Issuer of any material property (including without limitation any patent or intellectual property, or goodwill); or
- (b) services provided or to be provided to the Issuer or any Subsidiary of the Issuer (whether related to its formation, promotion, or Listing, or otherwise);

and includes:

- (c) any Securities issued pursuant to a consolidation, subdivision, bonus issue, or similar arrangement in respect of Securities referred to above; and
- (d) any other Securities which NZX determines are Vendor Securities.

“**Vote**” means a right to vote at meetings of holders of Securities of the Issuer other than:

- (a) a right to vote solely upon matters of a nature immaterial or inconsequential to the control of the Issuer, or to the control of any material part of the business or operations of the Issuer; or
- (b) a right to vote only when a payment in respect of the Security in question is in arrears or some other default exists, or on a proposal to change the rights attaching to that Security, or in other circumstances of a special or remote nature; or
- (c) a right to vote attaching to Securities which are not Equity Securities, exercisable only at meetings of holders of those Securities.

1.1.3 **Construction:** In the Rules:

- (a) The headings appear as a matter of convenience and shall not affect the construction of the Rules; and
- (b) In the absence of an express indication to the contrary, references to sections, paragraphs and appendices are to sections and paragraphs of, and appendices to, the Rules and reference to a Rule includes any of its sub-Rules or paragraphs; and
- (c) References to any statute, statutory regulations or other statutory instrument shall be deemed to be references to the statute, statutory regulations or instrument as from time to time amended or re-enacted, or, as the context permits, provisions substituted for the time being in force; and
- (d) The singular includes the plural and vice versa and words importing any gender include the other genders; and

- (e) The appendices to the Rules shall have the same force and effect as if set out in the body of the Rules; and
- (f) The words “written” and “writing” include facsimile communications and any other means of communication resulting in permanent visible reproduction; and
- (g) The word “person” includes any association of persons whether corporate or unincorporate, and any state or government or department or agency thereof, whether or not having separate legal personality; and
- (h) Unless stated otherwise, references to monetary amounts are to New Zealand currency and references to times are New Zealand time.

(Amended 1/5/04)

1.1.4 Notes for Guidance Only: The footnotes to the Rules are intended as a guide for users and an aid in interpretation and, only to that extent, form part of the Rules.

1.1.5 Whole Group Subject to Rules: Reference to an Issuer in the Rules shall, as the context permits, extend to include all members (other than another Listed entity or a Subsidiary thereof) of any group of companies and/or other entities of which the Issuer is the holding company, or in which the Issuer otherwise has a controlling interest, to the extent that such extension is necessary to ensure that the object of the Rules is not frustrated or avoided by reason of the separate legal personality of members of the group. In relation to the disclosure of information for this purpose the group includes any Associated Persons of the Issuer of which the Issuer has control in law or in fact, other than any such Associated Person which is another Listed entity or a Subsidiary thereof. Assessment of the materiality of any information in relation to such group shall be treated as if the group constituted one business.

1.1.6 New Zealand Law Terms: Terms used in the Rules which have defined meanings in the Companies Act 1993, the Securities Markets Act 1988 and/or the Securities Act 1978 shall have the same meanings in the Rules unless the context requires otherwise.

1.1.7 Ordinary Resolution of the Issuer: If as a matter of law, or by reason of the provisions of any Constitution or other document, the holders of all Classes of Securities which carry Votes are not able to meet and vote at one meeting, then more than one meeting may be held and, for the purposes of the definition of Ordinary Resolution of the Issuer, regard may be had to the aggregate

number of Votes cast in favour of and against the relevant proposal at all of the meetings held.

1.2 APPRAISAL REPORTS

1.2.1 Approval by NZX: An Appraisal Report for the purposes of the Rules shall be made by an independent appropriately qualified person previously approved by NZX. If the report states that the reporter relies on information provided, or an opinion expressed, by another party (other than the Issuer in question or its Directors or employees) that other party shall also be approved by NZX.

1. **Appraisal Reports are required by Rules 4.5.8, 6.2.2 and 9.2.5.**
2. **NZX approval required of the person proposed as the reporter, or a person on whom the reporter relies, will be on a case by case basis, so that NZX can be satisfied as to the “independence” of the person in question in relation to the circumstances of each case.**
2. **As to independence, NZX should be advised when approval is being sought:**
 - (i) **as to whether the person proposed has had or will have any relationship with the parties to the transaction; and** *(Amended 1/5/04)*
 - (ii) **as to whether any fee or benefit is payable to that person contingent on the success or implementation of the relevant transaction or any transaction complementary to or dependent on it; and** *(Amended 1/5/04)*
 - (iii) **of the number and nature of Appraisal Reports in respect of the Issuer prepared by the person proposed in the past five years; and** *(Inserted 1/5/04)*
 - (iv) **of the business transacted with the Issuer by the person proposed in the past five years and, where the proportion of the proposed person’s total revenue that business represented in the financial year that business was transacted exceeded 5% of the proposed person’s total revenue, the actual amount of revenue that business represented; and** *(Inserted 1/5/04)*

- (v) as to whether the proposed person has had any part in the formulation of the proposal of the transaction or any aspect thereof. *(Amended 1/5/04)*

There may be further queries raised by NZX in any instance. For example, NZX may take the view that a person who has, or has had, a significant advisory or professional relationship with a party to the transaction or who might otherwise be seen as particularly close to the Directors or management, may have at least the appearance of being compromised by the relationship and will not be accepted for appointment by NZX.

1.2.2 Contents of Report: An Appraisal Report shall:

- (a) be addressed to the Directors of the Issuer not associated with any relevant Associated Persons or, if there are no such Directors, to NZX, which at the expense of the Issuer will oversee the distribution of the report to holders of Securities of the Issuer. For this purpose “relevant Associated Persons” means the Associated Persons whose association or connection with the Issuer, or the Directors of the Issuer, or with the parties to a transaction or the anticipated acquirers of the Securities of an issue, results in a requirement that an Appraisal Report be obtained under the Rules; and
- (b) be expressed to be for the benefit of the holders of Equity Securities of the Issuer not associated with any relevant Associated Persons (as defined in (a)); and
- (c) state whether or not in the opinion of the reporter the consideration and the terms and conditions of the relevant proposed issue or other transaction are fair to the holders of Equity Securities other than those associated with the relevant Associated Persons (as defined in (a)) and the grounds for that opinion; and *(Amended 1/5/04)*
- (d) state whether or not in the opinion of the reporter the information to be provided by the Issuer to holders of its Securities is sufficient to enable holders to understand all relevant factors, and make an informed decision, in respect of the question referred to in (c) and the grounds for that opinion; and *(Amended 1/5/04)*

- (e) state whether the reporter has obtained all information which the reporter believes desirable for the purposes of preparing the report, including all Material Information which is or should have been known to any Director of the Issuer and made available to the Directors; and
- (f) state any material assumptions on which the reporter's opinion is based; and
- (g) state any term of reference which may have materially restricted the scope of the report; and
- (h) if it contains a disclaimer of liability, not purport to absolve the reporter from liability for an opinion expressed recklessly or in bad faith.

If the reporter forms the opinion that the relevant issue or other transaction has been structured wholly or partly with a view to conferring a benefit on the relevant Associated Persons (as defined in (a)), the reporter may have regard to, and mention, any alternative courses for acquisition or disposition of assets or services, or subscription for an issue, as the case may be, which seem to the reporter to be reasonably available to the Issuer. The reporter shall disregard any constraints arising from indications by the Directors that such alternative courses are not acceptable, or that they would not propose to pursue them, if any such reasons may be wholly or partly attributable to concerns about the interests of the relevant Associated Persons in distinction to the interests of the other holders of Equity Securities.

- 1.2.3 Summary of Report:** An Issuer may, if it so elects, circulate to holders of its Securities a summary of an Appraisal Report, rather than the report in full. If the Issuer elects to circulate a summary then that summary shall be accompanied by a certificate from the reporter that the summary is accurate and not misleading to the beneficiaries of the report in all the circumstances likely to be generally known by the beneficiaries.

1.3 ASSOCIATED PERSONS

- 1.3.1 Associated Persons:** In the Rules, a person is an Associated Person of another person if the first person is associated with the other person in terms of Rules 1.3.2 to 1.3.6.
- 1.3.2 Association:** A person (the "first person") is associated with another person (the "second person") if, in making a decision or exercising a power affecting an Issuer, the first person could be influenced as a consequence of an

Arrangement or relationship existing between, or involving, the first person and the second person.

1.3.3 Deeming Provisions: Without limiting Rule 1.3.2, the first person is associated with the second person if:

- (a) the first person is a company, and the second person is:
 - (i) a Director of that company; or
 - (ii) a Related Company of that company; or
 - (iii) a Director of a Related Company of that company; or
- (b) the first person is a spouse, domestic companion, child or parent of the second person, or a nominee or trustee for any of them or for the second person; or
- (c) the first person is a Director of a company, or holds a Relevant Interest in Securities carrying more than 10% of the Votes of a company and the first person and the second person are parties to an Arrangement relating to the control of, or the control or ownership of Securities in, that company, which Arrangement affects Securities of that company carrying more than 30% of the total Votes attaching to Securities of that company; or
- (d) the first person and the second person are acting jointly or in concert; or
- (e) the first person and/or the second person propose to do, or are likely to do, anything which will cause them to become associated in terms of (a) to (d) or Rule 1.3.2.

1.3.4 Exclusions: The first person is not associated with the second person solely because:

- (a) the first person acts as a professional or business adviser to the second person, without a personal financial interest in the outcome of that advice; or
- (b) the first person is a Trading Participant or other person whose ordinary business includes dealing in Securities on behalf of others, and the first person acts in accordance with the specific instructions of the second person to deal in Securities; or *(Amended 1/5/04)*

- (d) the first person acts as a proxy or representative of the second person for the purposes of a meeting of holders of Securities of a company or other entity.

1.3.5 Reverse Application: If the first person is associated with the second person in terms of Rules 1.3.2 to 1.3.4, then the second person shall be deemed to be associated with the first person.

1.3.6 Ruling: Notwithstanding anything in this Rule 1.3, persons shall not be associated if NZX rules that they are not associated.

1.3.7 Definition: For the purposes of this Rule 1.3, “Arrangement” means an agreement, arrangement, or understanding, whether express or implied, and whether or not legally enforceable.

1. **The definition of “Associated Person” is broad. If there is any doubt as to whether any two or more persons are Associated Persons, Issuers should seek a ruling from NZX in terms of Rule 1.3.6.**
2. **If a connection between two persons of the nature referred to in Rule 1.3.3(c) or (d) is not related to the matter in respect of which the question of whether those persons are Associated Persons is required to be determined, NZX will readily grant a ruling that those persons are not Associated Persons.**

1.4 DISPUTED INTERPRETATION

1.4.1 Decisions by NZX: In the event of a dispute or anticipated dispute between an Issuer and any Security holder of that Issuer having the benefit of the Rules, as to the meaning of any of the provisions of the Rules, upon application of either of them, the matter may, if NZX elects to exercise this power, be determined by NZX.

1.4.2 Application for Determination: Any party to a dispute or anticipated dispute who is entitled to apply to NZX for a determination under Rule 1.4.1 and seeks such a determination shall give written notice to NZX. The notice shall contain a summary of the relevant facts known to the applicant and any explanation necessary to enable NZX to know the issues which are or may be in dispute and to identify which, if any, other parties or potential parties should be given notice of the application and invited to make submissions.

- 1.4.3 Relationship to Court Proceedings:** Before any action at law is commenced by a party to, or Security holder having the benefit (pursuant to Rule 2.1) of, the contract represented by the Rules, which involves determination of a dispute as to the meaning or application of the Rules, such party shall apply to have a determination made by NZX pursuant to Rule 1.4.1 as a condition precedent to the commencement of such proceedings.

Rule 1.4.3 is analogous to a *Scott v Avery* clause used in arbitration provisions, and is intended to have the same effect.

(Amended 1/5/04)

1.5 ALTERATION OF RULES

- 1.5.1 Procedure:** The Rules may be changed at any time or times by NZX. Notice of a change made under this Rule shall be given in writing to each Issuer. A change shall take effect on the expiry of such period of notice of the changes as NZX sees fit. *(Amended 1/5/04)*
- 1.5.2 Omission to Notify:** Accidental omission to give notice to an Issuer or non-receipt of a notice given to an Issuer shall not invalidate the notice in relation to that Issuer or any other person.

1. NZX may circulate proposed amendments (other than those relating to forms and fees) in draft form to all Issuers for comment. NZX will publish a notice of amendments.
2. The attention of Issuers is drawn to Rule 1.11, dealing with changes to Constitutions or Trust Deeds made necessary by a change to the Rules.

1.6 RULINGS

- 1.6.1 Power to Make Rulings:** NZX may, on request or of its own motion and whether or not a dispute exists, by written notice to the Issuer concerned, make rulings as to the meaning, interpretation or application of any one or more of the provisions of the Rules for such period and on such terms and conditions as NZX may determine. *(Amended 1/5/04)*

- 1.6.2 Publication of Rulings:** Unless the Issuer establishes, to the satisfaction of NZX, grounds for maintaining confidentiality of NZX's decision with respect to a ruling application made by that Issuer or, unless NZX determines in its sole discretion not to publish its decision with respect to a ruling application, NZX will publish that decision and the identity of that Issuer and the facts of that application and the grounds for determining that application will be disclosed. *(Inserted 1/5/04)*

- 1. NZX will generally consider that rulings sought in anticipation of a transaction will be grounds for confidentiality until such transaction is announced to the market. If the transaction does not proceed, the ruling sought will not lose its confidentiality.**
- 2. All applications for rulings should be submitted to NZX at least 10 Business Days prior to the Issuer requiring a determination. Where applications are not submitted to NZX at least 10 Business Days prior to the Issuer requiring a determination, the Issuer may be charged an urgency fee.** *(Inserted 1/5/04)*

- 1.6.3 Effect of Ruling:** Any ruling given pursuant to Rule 1.6.1 shall have effect according to its tenor as if it formed part of the Rules in relation to the Issuer concerned and may be recorded or publicised in such manner as NZX thinks fit. *(Inserted 1/5/04)*

- 1. Rules 1.6.1 (and 1.4 and 1.7) are intended to exclude the Court's role in interpreting the Rules only where and to the extent that NZX has made a relevant Ruling before the date on which the substantive Court hearing could occur. Because the Rules, although contractual, assume the exercise of broad discretions in some areas, the rights and entitlement conferred under the Rules are to be read subject to the possibility of exercise of the powers and discretions reserved to NZX.**

2. Any ruling given pursuant to Rule 1.6.1 will be provided to the Issuer not less than one half a Business Day prior to publication by NZX and should be kept confidential to the Issuer until published by NZX. The ruling to be provided is a final decision, and will not be for comment by the Issuer. The ruling is provided to facilitate the Issuer dealing with the publication of the ruling by NZX.
(Inserted 1/5/04)
3. Issuers making applications for rulings should complete any templates promulgated by NZX for this purpose and all information necessary for NZX to determine such application should be provided at the time of application. Where NZX requires the Issuer to provide additional information in respect of an application for a ruling, NZX will have 10 Business Days from the date all information is finally provided to make its determination. An Issuer must comply with any NZX timetable for provision of information and any information received after the date set out in the timetable may not be considered by NZX. *(Inserted 1/5/04)*
4. Where an Issuer wishes its application for ruling and NZX's decision on that ruling application to be treated in confidence it should specify this in its application and include grounds in support of this. *(Inserted 1/5/04)*

1.7 WAIVER

- 1.7.1 **Power to Waive:** NZX may, in any particular case or cases, by written notice to the Issuer concerned, waive the application of any one or more of the provisions of the Rules for such period (whether commencing before or after the date of the notice) and on such terms and conditions as NZX may determine.
- 1.7.2 **Publication of Waiver:** Unless the Issuer establishes, to the satisfaction of NZX, grounds for maintaining confidentiality of NZX's decision with respect to a waiver application made by that Issuer, or unless NZX determines in its sole discretion not to publish its decision with respect to a waiver application, NZX will publish that decision and the identity of that Issuer and the facts of that application and the grounds for determining that application will be disclosed. *(Inserted 1/5/04)*

1. **NZX will generally consider the waivers sought in anticipation of a transaction to be grounds for confidentiality until such transaction is announced to the market. If the transaction does not proceed, the waiver sought will not lose its confidentiality.**

(Inserted 1/5/04)

2. **All applications for waivers should be submitted to NZX at least 10 Business Days prior to the Issuer requiring a determination. Where applications are not submitted to NZX at least 10 Business Days prior to the Issuer requiring a determination, the Issuer may be charged an urgency fee.**

(Inserted 1/5/04)

1.7.3 Revocation: Any waiver granted under Rule 1.7.1 may be revoked at any time by NZX by written notice to the Issuer concerned and such revocation shall have effect from the date stated in the notice (which may be before the date of the notice if NZX considers that the waiver was granted on the basis of incorrect information).

1.7.4 Publication: Subject to Rule 1.7.2 NZX may publish such information relating to a waiver granted or refused under Rule 1.7.1, or revocation of a waiver under Rule 1.7.3, as it considers desirable. *(Amended 1/5/04)*

1. **Any waiver given pursuant to Rule 1.7.1 will be provided to the Issuer not less than one half a Business Day prior to publication by NZX and should be kept confidential to the Issuer until published by NZX. The waiver to be provided is a final decision, and will not be for comment by the Issuer. The waiver is provided to facilitate the Issuer dealing with the publication of the waiver by NZX.**

(Inserted 1/5/04)

2. **NZX shall consider retrospective waivers only in exceptional circumstances where a minor or inadvertent breach by an Issuer would incur severe consequences for such Issuer if the application were not considered by NZX.**

(Inserted 1/5/04)

3. Issuers making applications for waiver should complete any templates promulgated by NZX for this purpose and all information necessary for NZX to determine such application should be provided at the time of application. Where NZX requires the Issuer to provide additional information in respect of an application for a waiver, NZX will have 10 Business Days from the date all information is finally provided to make its determination. An Issuer must comply with any NZX timetable for provision of information and any information received after the date set out in the timetable may not be considered by NZX. *(Inserted 1/5/04)*
4. Where an Issuer wishes its application for waiver and NZX's decision on that waiver application to be treated in confidence it should specify this in its application and include grounds in support of this. *(Inserted 1/5/04)*

1.8 INTERPRETATION POLICY

1.8.1 General Application of Policy Statements: In the exercise of the powers to make Rulings NZX shall be guided by the policies set out or explained in the Foreword to the Rules and in the footnotes and any other practice notes or relevant Rulings promulgated to Issuers. *(Amended 1/5/04)*

1.8.2 Elaboration of Policy: In addition to the policy statements referred to in Rule 1.8.1 NZX may from time to time issue further policy statements and practice notes which will have a similar status in the application of the Rules. *(Amended 1/5/04)*

1.8A SPECIAL DIVISION

1.8A.1 Regulation of NZX: In respect of the Listing of NZX these Rules shall be administered by the Special Division in accordance with appendix 1 of the NZX Discipline Rules. *(Inserted 1/5/04)*

1.9 RULES WHICH APPLY TO ISSUERS

1.9.1 If Equity Securities Quoted: All the provisions of the Rules apply to an Issuer Equity Securities of which are Quoted.

- 1.9.2 If no Equity Securities Quoted:** All the provisions of the Rules, other than those listed in appendix 5, apply to an Issuer that does not have Equity Securities Quoted. *(Amended 1/5/04)*
- 1.9.3 If Equity Warrants Quoted:** All the provisions of the Rules, other than those set out in appendix 14, apply to an Issuer of Quoted equity warrants which has no other Equity Securities Quoted. *(Amended 1/5/04)*

- 1. The application of the Rules to Overseas Listed Issuers is dealt with in Rule 5.1.6.**
- 2. The application of the Rules to Dual Listed Issuers is dealt with in Rule 5.1.5A.** *(Amended 1/5/04)*

1.10 TRANSITIONAL PROVISIONS

1.10.1 Provisions of Existing Constitution: If:

- (a) the Constitution of an Issuer complied with the provisions of the New Zealand Stock Exchange Listing Rules in force before 1 January 1999; and
- (b) that Issuer is prevented by the terms of that Constitution from complying with any provision of the Rules,

then such non-compliance shall, so long as the Issuer complies with Rule 1.10.2, and for so long as the Constitution of the Issuer prevents compliance, be deemed not to be a breach of the Rules.

1.10.2 Notice to NZX: If Rule 1.10.1 applies in respect of an Issuer, then before any non-compliance with the Rules occurs that Issuer shall advise NZX of:

- (a) the provision of the Rules which will not be complied with; and
- (b) details of the nature of that non-compliance; and
- (c) details of the provisions of the Constitution of the Issuer which prevents compliance.

Rule 1.10.2 is intended to require an Issuer to advise NZX of any specific non-compliance with the Rules when that non-compliance occurs, and of the provision of the Issuer’s Constitution which gives rise to that non-compliance. Rule 1.10.2 does not require Issuers to conduct a general review of their existing Constitutions to determine the circumstances (if any) in which the Constitution may prevent compliance with the Rules.

1.10.3 Continuation of Waivers: Any waiver granted by NZX pursuant to the New Zealand Stock Exchange Listing Requirements or Rules in force before 1 January 1999 shall be deemed to be a waiver given pursuant to Rule 1.7, and shall (subject to the power of NZX pursuant to Rule 1.7.2) continue in force notwithstanding the introduction of these Rules.

1.11 EFFECT OF CHANGES TO RULES – STATUS OF LISTING REQUIREMENTS

1.11.1 General: Whenever a change is made to the Rules which requires a change to be made to any Constitution or Trust Deed, each Issuer affected shall, at the first reasonable opportunity, cause its Constitution or Trust Deed to be changed. In the case of changes to those Rules which must be contained in or incorporated by reference into a Constitution an Issuer that has those provisions contained in its Constitution shall at the first reasonable opportunity, cause its Constitution to be amended and in the case of an Issuer that incorporates by reference those Rules required to be contained in its Constitution such amended Rules shall be deemed to be incorporated into that Issuer’s Constitution by reference on the date specified in the notice given under Rule 1.5. *(Amended 1/5/04)*

- 1. NZX will generally regard the first annual meeting of the Issuer held six months or more after a change in the Rules as the first reasonable opportunity for a change in the Constitution where the Rules are not incorporated by reference into that Issuer’s Constitution. *(Amended 1/5/04)***
- 2. Where an Issuer incorporates by reference those Rules required to be contained in its Constitution, NZX will generally provide one month after the expiry of the notice given under Rule 1.5 before amended Rules shall be deemed to be incorporated into that Issuer’s Constitution.**

1.11.2 Changes as at 1 January 1999: The introduction of the Rules on 1 January 1999 shall be deemed for the purpose of this Rule 1.11 to be a change to the Rules.

1.11.3 Previous Listing Requirements and Rules Cease to have Effect: The New Zealand Stock Exchange Listing Requirements shall cease to have effect on 1 September 1994, and New Zealand Stock Exchange Listing Rules in force on and after 1 September 1994 shall cease to have effect on 1 January 1999.

1.11.4 Work in Progress: Any transactions to which these Rules apply, and which commenced prior to any amendments coming into force, may proceed pursuant to the previously applicable Listing Rules, provided that a waiver from any amended Listing Rules applicable to such a transaction has been granted by the Panel or NZX on or before the expiry of 3 months from their coming into force.
(Amended 1/5/04)

1.11.5 Changes to Corporate Governance Requirements: Rules 3.3.1A to 3.3.1C, 3.6 and Appendix 16, and the alterations to the Foreword and Rules 1.1.2, 3.3.1, 3.3.2, 5.1.6, 10.5.3 made on 29 October 2003 will commence for each Issuer on the later of 12 months from 29 October 2003 or 12 months from the conclusion of that Issuer's 2003 annual meeting. The alteration to Rule 7.3.6 will commence on 29 October 2003.
(Amended 1/5/04)

1.11.6 Changes to Market Surveillance Panel and Introduction of NZX Discipline: All Rules relating to the establishment, powers and procedures of the Market Surveillance Panel in force prior to the introduction of the Rule changes on 1 May 2004 shall be deemed to be in force and effect to the extent an application has been made to the Market Surveillance Panel on or before that date and those prior Rules shall continue in force in respect of that application.
(Inserted 1/5/04)

1.12 CONDITION IN CONTRACT

Each Issuer shall ensure that its obligations, and the obligations of its Subsidiaries, under every agreement involving a transaction which in terms of the Rules requires approval by a resolution of holders of Securities shall:

- (a) be conditional upon the passage of such a resolution in accordance with the Rules; and
- (b) not be completed until that resolution is passed.

If that resolution is not passed, the Issuer shall terminate its obligations, or the obligations of its Subsidiary, under that agreement, so that the transaction in question does not proceed. *(Amended 1/5/04)*

1.13 *(Revoked 1/5/04)*

1.14 GOVERNING LAW AND JURISDICTION

The Rules shall be governed by and construed in accordance with the law of New Zealand. Each Issuer shall be deemed, by entering into a Listing agreement with NZX, to have irrevocably submitted to the non-exclusive jurisdiction of the Courts of New Zealand.