

EFFICIENT MARKET SERVICES LIMITED



unlisted

Market Rules

December 2015

CONTENTS

1.	General	4
2.	Foreword to the Rules	6
2.1	Introduction	6
2.2	Principles of Administration	6
2.3	Participants' Responsibility	7
2.4	Enforcement	7
2.5	Surveillance	7
2.6	Standardisation	8
2.7	Standard Terms of Securities	8
2.8	Disclosure	8
2.9	Waivers and Dispensation	9
3.	Definitions	10
4.	Interpretation and General	12
4.1	Construction:	12
4.2	Application of Policy	13
4.3	Inspection	13
4.4	Intellectual Property	13
4.5	Disputed Interpretation	13
4.6	Disputes and Arbitration	14
4.7	Suspension or Cancellation	14
4.8	Liability and Indemnity	14
4.9	Termination	15
4.10	Miscellaneous	16
4.11	Services not guaranteed fault free	17
4.12	Force Majeure	17
4.13	Governing Law and Jurisdiction	17
5.	Rules for Issuers: (Listing Rules)	18
5.1	Rules which apply to Issuers	18
5.2	Application Process	18
5.3	Transitional Provisions	18
5.4	Record Date	19
5.5	Market Conduct	19
5.6	Disclosure of Information	19
5.7	Issuer Fees	21
5.8	Trading and Settlement	21
5.9	Website	21

5.10	Communications	21
5.11	Sanctions	22
5.12	Contracts Privity Act to Apply	22
5.13	Costs	23
5.14	Bond or Deposit	23
6.	Rules for Brokers and Market Conduct	24
6.1	Rules which apply to Brokers	24
6.2	Application Process	24
6.3	Broker Fees	24
6.4	Conduct	25
6.5	Investor Disclaimer and Trading	25
6.6	Sale Contracts	26
6.7	Notification	26
6.8	Investor Communications	26
6.9	Contracts Privity Act to Apply to Trading	27
6.10	Trading Rules	27
6.11	Settlement	28

1. General

- 1.1 Unlisted is not a Licensed Financial Product Market ("**FPM**"). It operates under an exemption from subpart 7 of Part 5 of the Act subject to certain conditions specified in the Exemption Notice.
- 1.2 Unlisted is owned and operated by Efficient Market Services Ltd ("**EMS**").
- 1.3 Unlisted is a Market provided on a Facility for trading in the securities of Issuers; and for the provision of information about those Issuers and their securities.
- 1.4 Unlisted provides an Order matching service for Brokers to trade the securities of Issuers.
- 1.5 These Unlisted Market Rules for Issuers specify a basic level of disclosure consistent with its market status under the Act, and the ongoing reporting and disclosure obligations of the Companies Act, Financial Reporting Act and Takeovers Code.
- 1.6 Security holders and investors can only participate in the Unlisted Market through a Broker which is a registered Financial Service Provider, employing Authorised Financial Advisors. Brokers are required by EMS to obtain a signed declaration from security holders and investors acknowledging the regulatory status of the Market prior to accepting any instructions to trade securities.
- 1.7 As Unlisted is not a Licensed FPM, it does not offer the additional benefits that Licensed FPM regulation may provide for some public participants.
- 1.8 Standards for Brokers are not administered by EMS, nor is compliance with them.
- 1.9 The issue and trading of securities pursuant to Initial Public Offerings ("**IPOs**") and Secondary Public Offerings ("**SPOs**"), or other means which comply with the Act, may be facilitated on the Unlisted Market. For any such offerings EMS may provide only a service facilitating the dissemination of public disclosures and, if required, matching subscriptions. EMS will not represent or act in any capacity as promoter, organiser, broker to, or offeror of, any such issue.
- 1.10 All participants use Unlisted on the basis that they unreservedly accept the standard Terms of Use of the Market, and that rights of recourse to legal action against decisions of EMS or any arbitration body used in disputes are waived (except for breaches of natural justice and decisions made in bad faith). Costs of enforcement or recourse to arbitration in disputes are to each participant's own account and Unlisted may recover its costs from participants in accordance with its terms of use.
- 1.11 EMS's contracts with Brokers and Issuers include indemnities for all costs incurred by EMS in reasonably enforcing those contracts.
- 1.12 Within these Market Rules:
 - 1.11.1 This General Section, the Foreword, Definitions and Interpretation apply to and form part of these Market Rules with which compliance is required under separate Listing and Broker Agreements.

- 1.11.2 The Listing Rules in Section 5 are principally for Issuers Listing and having securities Quoted on Unlisted.
- 1.11.3 The rules in Section 6 cover the participation of Brokers and the conduct of trading on Unlisted.
- 1.11.4 Standard forms are used for Agreements and the provision of required information and may be found on the Unlisted Market Website.

2. Foreword to the Rules

2.1 Introduction

- 2.1.1 The EMS Market Rules and Website Terms of Use reflect a commitment to competitive neutrality, efficient facilitation, freedom and integrity in business, shareholder choice and improving access to capital markets.
- 2.1.2 Unlisted is structured with a presumption of caveat emptor. Participants will get no more assurance of returns, reliability of information provided, or certainty of outcomes than that afforded under these Rules and other relevant general legislation. Participants will be free to engage or not without the degree of regulatory formality, protections and compliance obligations associated with a Licensed FPM. Caveat emptor does not mean however that EMS will tolerate deceit or calculated breaking of undertakings. If participants breach their obligations in any material respect, EMS may (but is not obliged or required to) take any action available to it against such a participant or any other person.
- 2.1.3 In cases of fraud by participants, EMS will act to remove offenders from access to its markets, and assist where it can with holding the offenders to account and encouraging action by the relevant authorities.
- 2.1.4 EMS provides no assurance of detection of trading misconduct, or misinformation, however, if it identifies any such abuses, either itself or because they are brought to its attention, EMS will act to restrict access by persons who are shown to abuse the freedoms and integrity of its markets.
- 2.1.5 These Rules do not offer to reduce information costs for investors to the same extent as in Licensed FPMs, nor provide the same level of assurance of outcomes or protection of minorities. To that extent, the Rules imply increased risk or information costs for investors, in return for more flexibility and a lower level of cost of compliance (or assurance of compliance) for Issuers.

2.2 Principles of Administration

- 2.2.1 Participants may require speed and certainty of interpretation and administration of the Rules that will involve exercise of discretions in a way which may, on occasions, limit the opportunities for exhaustive investigation and long deliberation on issues. EMS does not believe that the commercial interests in speed, certainty and efficiency in reaching decisions, can coexist with the full range of procedures developed in the context of administrative law controls on governmental and tribunal processes. Accordingly, people choosing to use the Market offered by EMS and to follow the Rules must accept that, in the interests of all participants generally, by using the Market they submit to the exercise by EMS in good faith of its wide powers of administration of the Rules.
- 2.2.2 EMS expects that all participants will be frank and prompt in response to any enquiries it makes of them.
- 2.2.3 EMS understands that Issuers adopting the Rules have chosen to comply fully with them in good faith. It also recognises that many such Issuers will not see value in the additional costs of processes aimed at demonstrating on-going compliance or of forcing equality of outcomes where participants do not avail themselves of

opportunities or entitlements. EMS will therefore aim to adopt and enforce compliance practices which minimise associated costs yet emphasise and ensure equality of opportunity.

2.3 Participants' Responsibility

- 2.3.1 EMS considers that the Market works best when participants including the buyers and sellers of securities are fully responsible for the quality and consequences of their decisions, including issuing instructions to buy and sell. Participants should therefore recognise that the Market operates on the caveat emptor principle qualified only in the specific respects mentioned below and reflected in the Rules. Accordingly, participants must accept that the Rules are not intended to result in any merit assessment of quality or risk by EMS of Brokers, Issuers, their securities or any other participants availing themselves of the Rules or the Market.
- 2.3.2 EMS screens both Issuers and Brokers and will deny persons access where EMS, in its sole discretion, considers they are not suitable for the market or a threat to its integrity. EMS, however, makes no judgment on the merit or otherwise of Issuers, Brokers or the securities Quoted on its markets.

2.4 Enforcement

- 2.4.1 In the interests of participants and the reputation of Brokers and Issuers choosing to follow the Rules, EMS will act against dishonesty and breaches of the Rules. EMS cannot, however, assure market participants of protection from or remedies to such behaviour. Risk of noncompliance with the Rules is one of many risks Market participants must assess prior to engagement, but compliance with the Rules is mandatory. EMS will endeavour to minimise the risk of noncompliance. It will act vigorously, as resources permit, by pursuing and exercising available remedies against Brokers and Issuers who choose to comply with the Rules but fail to do so, in cases where it considers remedies available to other Market participants do not constitute an effective sanction.
- 2.4.2 EMS will pursue remedies which directly benefit particular participants affected by breaches of the Rules only in exceptional cases, where it considers that to assist in obtaining such remedies is a cost effective means of procuring better compliance in the future. The Rules therefore facilitate direct pursuit by participants of remedies for breaches affecting them.

2.5 Surveillance

- 2.5.1 EMS undertakes limited surveillance and monitoring of Brokers and Issuers and market activity and therefore can give no assurance that breaches of the Rules, other laws and/or regulations, by participants will be detected.
- 2.5.2 Matters of administration and operational management and monitoring of market activities will be dealt with by the Executive(s) of EMS and, as required, decisions will be made by the EMS Board.
- 2.5.3 Where EMS has evidence of breaches of relevant securities or other laws and regulations, or concerns about market practice and activity, these may be referred to the FMA for further investigation and action.

2.6 Standardisation

- 2.6.1 The Rules constitute standard terms of contract intended to encourage trade by reducing the need for participants to enquire into the specifics of the trading processes, counterparty risk, and the characteristics of each Issuer or each security Quoted.
- 2.6.2 The standardisation provided by Rules is not intended to, and does not, remove or reduce participants full responsibility for the quality and consequences of their decisions. This includes the responsibility for investors making their own proper enquiries before trading.
- 2.6.3 Listing on Unlisted confers the privilege and benefits of a brand description in respect of features which are regulated by the Rules. All Issuers have a material stake in protection by EMS of the integrity of its quality descriptions.

2.7 Standard Terms of Securities

- 2.7.1 The standard assumptions which EMS considers necessary to facilitate efficient trading in securities on Unlisted are:
 - 2.7.1.1 that each security confers an equal entitlement to distributions from the Issuer to its holders unless otherwise stipulated by the terms of issue;
 - 2.7.1.2 that each security within a class of securities that carries voting rights confers an equal entitlement to vote on matters falling for decision by the holders of that security;
 - 2.7.1.3 nothing in the constitution or contracts of an Issuer with other parties should prevent ultimate control of the Issuer resting with holders who exercise a majority of the votes conferred by the classes of equity securities of the Issuer carrying such votes;
 - 2.7.1.4 all bids and offers of securities Quoted on Unlisted are public. No restrictions are allowed on the persons who may place bids and offers through a Broker on the Market, however, buyers should be aware of restrictions on ownership in an Issuer's Constitution that may involve subsequent disenfranchisement or sale.

2.8 Disclosure

- 2.8.1 Section 5 prescribes the Disclosure requirements for continuing Quotation of an Issuer's securities on the Market and for Issuers making an offer through the Market.
- 2.8.2 EMS believes that trading on the Market is most efficiently conducted and fostered for all participants when Issuers are required to disclose to all participants as much relevant information as can be disclosed without material damage to the interests of the Issuer. EMS recognises that it is not always easy to discern where the balance should lie between commercial interest in confidentiality, and the interests of an efficient market in full disclosure. Where EMS considers that there is, or is likely to be a false market, it may take any action it deems appropriate in its discretion.

- 2.8.3 Information generated by an Issuer is an asset which should be distributed to security holders equally as soon as it ceases to be necessary that the information be held for the exclusive use and benefit of the Issuer. The Issuer has a duty to protect information and keep it confidential while it can. Information should be widely disseminated when it becomes available to outsiders who would be free to trade in the Issuers' securities with the benefit of that information.
- 2.8.4 EMS recognises that it is not practicable to require Issuers to give information to existing security holders before any other market participants. Accordingly the operation of the Market and the disclosure Rules assume use of public media and EMS's own systems to disseminate information, which may necessarily mean that some participants receive it before others. Issuers are to take all reasonable steps to minimise the risks of materially unequal distribution of information by taking account of the channels through which information is released.

2.9 Waivers and Dispensation

- 2.9.1 The Rules are necessarily broadly framed. EMS does not, however, wish the broad scope of the Rules to constrain the form or development of commercial transactions which do not undermine the integrity and objectives of Unlisted. Exceptions and qualifications to the Rules are therefore necessary to reflect the balance of competing interests and avoid creating opportunities for exploitation of loopholes that could serve to undermine the integrity of the Market. For that reason EMS has reserved wide powers of waiver and dispensation. Issuers are encouraged to make use of those powers in circumstances in which EMS can be satisfied that the proposals for which dispensation is sought are innocuous. Exercise of these powers cannot affect the rights of participants or the rights of investors arising under the constitutional documents of an Issuer in relation to matters in which those documents do not leave a discretion to EMS.

3. Definitions

In these Rules:

Act means the Financial Markets Conduct Act 2013 and any amendments thereto.

Agreement means the Listing Agreement or Broker Agreement as the context implies.

Annual Fee means the annual fee for Listing or Quotation of securities, being registered as a Broker, or for the dissemination of information. Applicable fees are published on the Website, and as amended from time to time.

Application Fee means the fee for application for Listing or registering as a Broker, as published on the Website, and as amended from time to time.

Broker means a broker that has entered into a Broker Agreement with EMS and is entitled to post Orders on the Market.

Broker Application Agreement means the agreement between a broker applying for acceptance for posting Orders on the Market and EMS.

Business Day means Monday to Friday, excluding national public holidays.

Buyer means a Broker posting a bid which is matched on the Market.

Companies Act means the Companies Act 1993.

Contracts Privity Act means the Contracts (Privity) Act 1982.

EMS means Efficient Market Services Limited

Executive means the management of EMS, its Manager and executives of the Manager, and/or delegated Board member with executive authority.

Exemption Notice means means (the notice posted in the New Zealand Gazette on 27 October 2015 exempting Unlisted from subpart 7 of Part 5 of the Act subject to the conditions specified).

Facility means the collective systems, software and Website used to provide the Market.

FMA means the Financial Markets Authority.

FPM means financial product market as defined in the Act.

Investor Disclaimer means the EMS Investor Disclaimer form (DL1) which Brokers must require investors to sign prior to trading on Unlisted for the investor and as amended by EMS from time-to-time.

Issuer means an entity that is party to a Listing Agreement with EMS, and that has a security accepted for Quotation on Unlisted.

Issuer Application Agreement means the agreement between an issuer applying for Listing on the Market and EMS.

Licensed means issued a license under the Act.

Listing means being a party to a Listing Agreement with EMS and **Listed** has a corresponding meaning.

Market means the Unlisted market operated by EMS on its Facility.

Order means a bid to buy a security or an offer to sell a security Quoted on the Market.

Quoted, in relation to a class of securities, means able to have Orders posted on the Market and **Quotation** has a corresponding meaning.

Record Date means the date upon which security-based entitlements or obligations are fixed by reference to the securities register of an Issuer.

Regulations means regulations made under the Act and any amendments thereto.

Rules means these rules applying to Issuers, Brokers and other participants and any other rules adopted by EMS and approved under Regulations and shall include the Terms of Use and any and all requirements set out in the Agreements between the Issuer and EMS and between the Broker and EMS.

Sale Contract means the binding contract of sale and purchase between the Buyer and the Seller created by the matching of two Orders (i.e. a bid to buy a security and an offer to sell a security) posted on the Market.

Seller means the Broker posting an offer which is matched on the Market.

Takeovers Code means the Takeovers Code Approval Order 2000, under the Takeovers Act 1993.

Trading Rules means the rules in the Section 6 of these Rules governing trading on the Market.

Transaction Fee means the fee published on the Website for a transaction, as amended from time to time.

Unlisted means the Market operated by Efficient Market Services Limited under that trading name or any different trading name or brand if changed.

We, us and **our** means EMS.

Website means the Unlisted website (www.unlisted.co.nz).

Terms of Use means the EMS terms of use as published on the Website as amended from time to time.

4. Interpretation and General

4.1 Construction:

In these Rules:

- 4.1.1 The headings appear as a matter of convenience and shall not affect the construction of the Rules;
- 4.1.2 Any 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.
- 4.1.3 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;
- 4.1.4 Terms used in the Rules which have defined meanings in the Act, the Companies Act and/or other relevant New Zealand legislation shall have the same meanings in the Rules unless the context requires otherwise.
- 4.1.5 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 therefore for the time being in force;
- 4.1.6 The singular includes the plural and vice versa and words importing any gender include the other genders;
- 4.1.7 The appendices to the Rules shall have the same force and effect as if set out in the body of the Rules;
- 4.1.8 The words "written" and "writing" include facsimile and electronic communications and any other means of communication resulting in permanent visible reproduction;
- 4.1.9 The word "person" includes any association of persons whether corporate or unincorporated, and any state or government or department or agency thereof, whether or not having separate legal personality; and
- 4.1.10 A reference to EMS, a Party, Issuer or Broker includes that person's successors and permitted assigns.
- 4.1.11 A reference to EMS includes any Subsidiaries of EMS, and Associated Persons, and the directors, senior managers, employees and contractors of each of EMS.
- 4.1.12 The word "including" does not imply any limitation.
- 4.1.13 Unless stated otherwise, references to monetary amounts are to New Zealand currency.

4.2 Application of Policy

- 4.2.1 In the exercise of any powers under these Rules, EMS shall be guided by the policies set out or explained in the Foreword to the Rules and in the footnotes and any rulings promulgated to Issuers or Brokers.

4.3 Inspection

- 4.3.1 In order to assist EMS to determine whether an Issuer or a Broker is complying or has complied with an Agreement with EMS, EMS may:
- 4.3.1.1 require the Issuer or Broker or any of that Issuer or Broker's directors, senior managers, employees, contractors or Subsidiaries to produce any documents (including electronic documents) for inspection or provide any information held by the person concerned;
 - 4.3.1.2 inspect and make copies of such documents; and
 - 4.3.1.3 if necessary for the purposes of making copies, remove such documents from the premises where they are kept for such period of time as is reasonable to make copies.
- 4.3.2 EMS must not:
- 4.3.2.1 use documents or information obtained under Rule 4.3.1 for any purpose other than the purpose stated in Rule 4.3.1; or
 - 4.3.2.2 disclose information obtained under Rule 4.3.1 to any person except EMS's directors, senior managers, employees and professional advisers, unless the law requires EMS to disclose that information.

4.4 Intellectual Property

- 4.4.1 The Issuer and the Broker acknowledge that EMS owns all of the intellectual property rights (including copyright or any right attaching to trade or business names, designs, trade marks, patents, trade secrets, or confidential or other proprietary information) in respect of EMS, Unlisted, the Facility and the Website.

4.5 Disputed Interpretation

- 4.5.1 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 we elect to exercise this power, be determined by us.
- 4.5.2 We may, on request or of our own motion and whether or not a dispute exists, make rulings as to the meaning or application of any one or more of the provisions of the Rules for such period and on such terms and conditions as EMS may determine. Any such ruling may be recorded or publicised in such manner as we think fit.

4.6 Disputes and Arbitration

4.6.1 If a dispute arises between EMS and any party to these Rules under or in connection with these Rules which the parties to these Rules are unable to resolve by negotiation within 20 Business Days of notice of the dispute by one party to the other, the dispute shall be referred to a mediator or arbitrator to be appointed by agreement of the parties or, failing agreement within 10 Business Days of written notice by one party to the other of its desire to have a dispute mediated or arbitrated, appointed by the President for the time being of the New Zealand Law Society on the application of either party.

4.7 Suspension or Cancellation

4.7.1 EMS may at any time, and in its absolute discretion, do any one or more of the following, without giving any reasons or prior notice to the Issuer or the Broker:

4.7.1.1 suspend trading on Unlisted generally, or of any security or securities of any Issuer, or by any Broker or Brokers, or by any investor; or

4.7.1.2 publish a censure of, or statement relating to, the conduct of the Issuer or Broker or the conduct of any of the Issuer or Broker's directors, employees, contractors, Subsidiaries or Associated Persons, if we consider such conduct warrants such a censure or statement.

4.7.2 Except where EMS has acted in bad faith, the Issuer and Broker waive all claims in respect of such censure or statement and indemnify EMS against any claim by them or by the persons referred to in the previous rule 4.7.1.2.

4.8 Liability and Indemnity

4.8.1 Without limiting EMS's other rights, EMS may cease to provide services and close the Website if EMS considers, at its absolute discretion, that the obligations of the Act make the EMS or Unlisted business model unviable, and EMS shall have no liability to the Issuer or any other person in connection with such closure.

4.8.2 If EMS does not meet its obligations to the Issuer, and the Issuer reasonably incurs expenses as a result, EMS will refund such part of the Issuer's Annual Fee for the then current year as necessary to reimburse such expenses (up to a maximum of such Annual Fee). For EMS to consider the Issuer's claim, the Issuer must notify EMS within 3 months after the time when EMS did not meet its obligations.

4.8.3 If EMS does not meet its obligations to the Broker, and the Broker reasonably incurs expenses as a result, EMS will refund such Transaction Fees the broker has paid in respect of the transaction or transactions concerned. For EMS to consider the Broker's claim, the Broker must notify EMS within 3 months after the time when EMS did not meet its obligations.

4.8.4 Except as provided in Rules 4.8.2 and 4.8.3, all liability EMS may have to the Issuer or the Broker is excluded. EMS is not liable to the Issuer or the Broker and does not have to pay the Issuer or the Broker for anything else caused by or resulting from any action or inaction by EMS, whether or not contemplated or authorised by any Agreement the Issuer or the Broker have with EMS. This exclusion applies whatsoever the Issuer or the Broker is claiming (including loss of profits, savings,

revenue or business) and however liability might arise but for this Rule (including for breach of contract or in tort, including negligence).

- 4.8.5 If EMS is ever liable to the Issuer and, for any reason whatsoever, EMS cannot rely on the exclusion of liability in Rule 4.8.4, the maximum combined amount EMS will have to pay the Issuer and anyone else who uses EMS services (together) is a total of the Annual Fee in any 12 month period.
- 4.8.6 If EMS is ever liable to the Broker and, for any reason whatsoever, we cannot rely on the exclusion of liability in Rule 4.8.4, the maximum combined amount EMS will have to pay the Broker and anyone else (together) is:
 - 4.8.6.1 \$1,000 for any event or series of related events; up to
 - 4.8.6.2 a total of \$5,000 in any 12 month period.
- 4.8.7 The Issuer and the Broker each indemnifies EMS against all liabilities, losses and costs, including legal costs, incurred in connection with such liability:
 - 4.8.7.1 to any third party in connection with their performance or breach of an Agreement, or their use of Unlisted or the Website (including in relation to information posted on the Website by the Issuer or on the Issuer's behalf); or
 - 4.8.7.2 to any client or former client of theirs in connection with any act, omission or matter in relation to EMS in which they acted for such person and any advice they gave such person concerning EMS or Unlisted or securities Quoted on the Website; or
 - 4.8.7.3 to any holder or former holder of any of the securities where such liability arises out of or in connection with the Listing or Quotation of the securities or a Sale Contract; or
 - 4.8.7.4 incurred by EMS arising out of or in connection with any action or inaction we take in relation to the Issuer or the Broker and which is in accordance with these Rules.

4.9 Termination

- 4.9.1 Without prejudice to EMS's rights of immediate suspension of an Issuer or Broker under rule 4.7, or termination of an Agreement with an Issuer under Rule 5.11.1.4, either EMS or an Issuer or Broker may end their respective Agreements by giving 20 Business Days written notice. EMS will cancel Quotation of the Issuer's securities, or the use of Unlisted or the Website by a Broker, before the end of the notice period provided that the Issuer or Broker are in compliance with these Rules, in particular that the Issuer or Broker are current with all fees and monies owed to EMS. EMS's Agreements with parties seeking termination may continue at EMS's sole discretion pending settlement of any outstanding debts.
- 4.9.2 Issuers seeking to cancel their Listing or to remove securities from Quotation are required to give at least 20 Business Days notice to EMS and to post an announcement of intention to delist or remove securities from Quotation, together

with advice of alternative securities trading arrangements that are to be put in place for the benefit of security holders.

- 4.9.3 The ending of an Agreement will not affect rights and obligations accrued before that Agreement came to an end.
- 4.9.4 If EMS has commenced any action against an Issuer or Broker prior to receipt of a request for termination, the provisions of these Rules shall continue in full force and effect until that action is completed.
- 4.9.5 Notwithstanding any matters outstanding at the termination of the Agreement, Rules which by their nature survive termination of an Agreement shall survive termination, including Rules 4.3, 4.4, 4.5, 4.6, 4.10.2, 4.13, 5.12, 5.13, and 6.9.

4.10 Miscellaneous

- 4.10.1 Standard forms for Agreements and disclosures referenced in these rules may be found on the Website.
- 4.10.2 Each notice or communication given under these Rules must be in writing and sent to the address, and marked for the attention of the person, set out in the Listing or Broker Agreement as appropriate.
- 4.10.3 These Rules, the Agreement and the Terms of Use:
 - 4.10.3.1 are the entire understanding and agreement of the parties about the matters dealt within them; and
 - 4.10.3.2 supersede and extinguishes all prior agreements and understandings between the parties about the matters dealt within them.
- 4.10.4 EMS may change any of these Rules by giving 20 Business Days notice.
- 4.10.5 Issuers and Brokers agree that they are acquiring the services of EMS for the purpose of a business as defined in the Consumer Guarantees Act 1993 and that the provisions of the Consumer Guarantees Act 1993 do not apply to the provision of the services under their Agreement with us.
- 4.10.6 No waiver of a party's rights is effective unless given by that party in writing. No failure or delay on the part of a party to exercise any right under an Agreement will be a waiver.
- 4.10.7 Each party must promptly do everything reasonably required to give full effect to the terms and intentions of these Rules.
- 4.10.8 The illegality, invalidity or unenforceability at any time of any term of the Agreement or these Rules will not affect the legality, validity or enforceability of the other terms of the Agreement or these Rules.
- 4.10.9 An Issuer and Broker may not assign or transfer any of their rights or obligations under the Agreement and these Rules without EMS's prior consent. EMS may assign its rights or obligations under the Agreement without the Issuer or Broker's consent.

4.10.10 Nothing in the Agreement or these Rules means that the parties are partners or that one party is the agent or representative of the other. Neither party has the authority to act, or to assume any obligation or liability, on behalf of the other.

4.11 Services not guaranteed fault free

4.11.1 EMS does not guarantee that provision of services to the Issuer or Broker (including Unlisted or the Website) will be continuous or fault free.

4.12 Force Majeure

4.12.1 Neither EMS nor the Issuer or Broker will be liable for any failure to perform an Agreement to the extent the failure arises from an event reasonably beyond the control of any of EMS, the Issuer, or the Broker, including strikes, lockouts, riots, acts of war, epidemics, government action superimposed after the date of an Agreement, fire, communication line failures, power failures, earthquakes or other disasters, provided that Force Majeure shall exclude lack of funds for any reason.

4.12.2 The party unable to perform due to Force Majeure shall immediately notify the other party (and provide reasonable details) and use its best endeavours to overcome the event.

4.13 Governing Law and Jurisdiction

4.13.1 The Rules shall be governed by and construed in accordance with the law of New Zealand. Each Issuer and Broker shall be deemed, by entering into an Agreement with EMS, to have irrevocably submitted to the non-exclusive jurisdiction of the Courts of New Zealand.

5. Rules for Issuers: (Listing Rules)

5.1 Rules which apply to Issuers

- 5.1.1 The Foreword, Definitions, Interpretation and General sections in these Rules form and shall be read as part of these Market Rules for Issuers, referred to in the Listing Agreement.
- 5.1.2 Standard Quotation: All the provisions of the Rules apply to an Issuer the securities of which are Quoted.
- 5.1.3 Temporary Quotation: All the provisions of the Rules apply to an Issuer of Equity securities of which are Quoted, except that the period of Quotation is pre-determined and finite and expected not to exceed 6 months.
- 5.1.4 By notice to the Issuer EMS may, in its absolute discretion, also impose additional conditions at any time that must be fulfilled by the Issuer to maintain Quotation of all or any of the Issuer's securities.

5.2 Application Process

- 5.2.1 Applications for use of the Market by an Issuer for Quotation or capital raising are made on the basis that acceptance or not is completely at EMS's discretion and no reasons need be provided by EMS for any such decision reached.
- 5.2.2 An application for Listing and Quotation may be made by completing a listing application agreement and submitting the prescribed fee, and all relevant and requested information to EMS for its review and evaluation, including a completed Company Information Form (DL7).
- 5.2.3 Provided all relevant and requested information is submitted with or before the application, applications by issuers for use of the Market will be processed within three weeks (EMS encourages preliminary dialogue with Issuers to facilitate this).
- 5.2.4 Prospective issuers need to have an annual report and audited accounts finalised within the last 12 months or, where a regulated offer has been made, audited financial accounts for a period ending not more than 4 months before the date of entering into a listing agreement with EMS.
- 5.2.5 Issuers whose principals are not fit and proper in the view of EMS will not be accepted and this will be completely at the discretion of EMS.

5.3 Transitional Provisions

- 5.3.1 If these Rules are changed, either because of changes to the Rules by EMS or if EMS is required by law or the FMA to change these Rules, and an Issuer is prevented by the terms of its constitution from complying with any provision of the new Rules, then the Issuer shall seek to change its constitution at its next annual general meeting or sooner if directed by law or the FMA and, until then, such non-compliance shall be deemed not to be a breach of the Rules.

5.4 Record Date

- 5.4.1 Unless for good reason, and in that case specified clearly and prominently in documentation provided by the Issuer for the benefit of Brokers and their clients, each time fixed by an Issuer as a Record Date shall be 5pm on a Friday, if the Friday is a Business Day, or otherwise on the previous Business Day.

5.5 Market Conduct

- 5.5.1 The market manipulation, insider trading and disorderly conduct prohibitions and sanctions of the Act do not apply to EMS markets.
- 5.5.2 EMS will not tolerate misconduct which threatens the reputation, effectiveness or integrity of Unlisted or EMS or the confidence of investors, and will act promptly and accordingly if it becomes aware of any misconduct.
- 5.5.3 An Issuer, any related party or any other person must not engage in any misleading, manipulative, or deceptive conduct generally, in relation to any dealings in securities, that is likely to mislead, manipulate or deceive the Market, or any conduct which prevents the operation of an orderly market. This rule applies to all dealings in Quoted securities, not just trading.
- 5.5.4 All Market transactions are undertaken only by Brokers who are registered Financial Service Providers and their Authorised Financial Advisors and comply with the conduct requirements of Rule 6.4.

5.6 Disclosure of Information

5.6.1 Financial Reporting

- 5.6.1.1 Issuers whose securities are Quoted on Unlisted must comply with the requirements of the Financial Reporting Act 2013 and Part 7 of the Act, irrespective of the number of security holders in the Issuer.

5.6.2 General Disclosure

- 5.6.2.1 Issuers shall at the same time as the Issuer makes available to holders of securities its Annual and, if prepared, Interim Report post a copy of such report on the Unlisted announcements platform where the most recent annual audited financial statements for the Issuer will be maintained as publicly available at all reasonable times.
- 5.6.2.2 Issuers are reminded that the Takeovers Act 1993 and reporting obligations therein apply to any public issuer with more than 50 shareholders and more than 50 share parcels.
- 5.6.2.3 Issuers must take all reasonable steps to ensure that information to be made public is not divulged to any person in a position of privilege, in relation to other holders or prospective holders of securities Quoted on any of the Unlisted Market, to deal in such securities before the information is posted on the Unlisted announcements platform.

5.6.2.4 For the avoidance of doubt, public disclosures should be made quickly and in a manner to ensure, as far as practicable, wide and uniform access to the information by investors. If circumstances preclude the Issuer posting advice on the Unlisted announcements platform before or contemporaneous with the public release of any such material information then the Issuer shall request, prior to making any public release, that EMS place an immediate trading halt that shall remain in place until such time as the disclosure has been posted on the Unlisted announcements platform.

5.6.3 Ongoing Disclosure

5.6.3.1 The Act's ongoing disclosure requirements for issuers listed on Licensed FPMs do not apply to Issuers listed on Unlisted.

5.6.3.2 In the interests of the conduct of an orderly market and the correct presentation of basic Issuer information and market statistics, Issuers are expected to report the following information by posting to the Unlisted announcements platform as soon as available:

- a) Financial reporting in compliance with the Financial Reporting Act 2013;
- b) Changes to details or information including:
 - i. Changes in its directors and senior managers;
 - ii. Corporate actions, both when approved and when actioned (i.e any corporate event affecting the number, value or terms of Quoted securities), including without limitation dividends, interest, buybacks for cancellation or treasury stock, sales of treasury stock, issue of securities, consolidations, cancellations, splits, rights or options. Unlisted provides a Form DL9 for Issuers to provide notice of these actions;
 - iii. Changes to basic company information (address, contact details, registrar, auditors and legal);
- c) Any disclosures required by the FMA; and
- d) Such other events, actions or new information that the Issuer at its sole discretion may consider to have a material impact upon the market price of the Issuer's Quoted securities if such event or action was known to investors provided that such disclosure is considered by the Issuer to be in the interests of all security-holders generally.

5.6.3.3 EMS will provide Issuers with passwords for Issuer access to post this information on the Unlisted announcements platform. Issuers are responsible for the authorisation and control (including protection and confidentiality) of access and passwords.

5.6.4 Substantial Security Holdings

5.6.4.1 The Act's Substantial Product Holding disclosure requirements do not apply to securities of Issuers that are Quoted on Unlisted.

5.7 Issuer Fees

5.7.1 The Issuer must pay any prescribed Application Fee on application, any Quotation fee prior to initial Quotation of the securities and the current Annual Fee in quarterly payments. The quarterly fee must be paid:

5.7.1.1 upon Quotation of the securities; and

5.7.1.2 on the due date as set out in subsequent quarterly invoices.

5.7.2 If the Issuer does not pay the Annual Fee instalments in full by the due date, the Issuer must pay interest on the outstanding amount at the rate of 10% per annum until payment is made.

5.8 Trading and Settlement

5.8.1 The Issuer warrants that the securities Quoted are able to be freely traded and that transfers to effect the trades may be effected without delay or restrictions (including that there are no pre-emptive rights attaching to the securities which would prevent such free trade and that any constitutional or other restrictions on ownership will be exercised or controlled by disenfranchisement and/or sale provisions post any transfer by sale through Unlisted and not by restrictions on transfer).

5.9 Website

5.9.1 The Issuer is bound by the Terms of Use. The Terms of Use set out all participants and EMS's rights and obligations regarding use of the Website.

5.10 Communications

5.10.1 Any communication with investors or potential investors (including any offer documents or advertisement) which refers to Unlisted (expressly or impliedly) must include a reasonably prominent disclaimer in the following terms:

5.10.2 *"Unlisted is not a Licensed Financial Product Market."*

5.10.3 At least 10 Business Days before issuing any offer document or advertisement, the Issuer must provide EMS with a draft of the communication to enable EMS to verify compliance with Rule 5.10.1. The communication must add the following to the disclaimer: *"Efficient Market Services Limited, which operates Unlisted, accepts no responsibility for any statement in this [name of communication]."*

5.10.4 The Issuer must not make or allow any statement or implication that is contrary to the disclaimer in Rule 5.10.1 or 5.10.2.

5.11 Sanctions

- 5.11.1 Upon determination of a breach of its Rules by an Issuer, EMS may, in its sole discretion, do any one or more of the following, without giving any reasons or prior notice to the Issuer:
- 5.11.1.1 Suspend Quotation and trading of the Issuer's securities until such time as appropriate remedies or actions have been undertaken by the Issuer; and/or
 - 5.11.1.2 Refer such breach to the Financial Markets Authority (FMA) with such supporting information and documentation as necessary; and/or
 - 5.11.1.3 Publish a censure of, or statement relating to the conduct of, the Issuer, or the conduct of any of the Issuer's directors, employees, contractors, Subsidiaries or Associated Persons if EMS considers such conduct warrants such a censure; and/or
 - 5.11.1.4 Immediately remove the Issuer as an Issuer from Unlisted and terminate the Agreement with that Issuer.
- 5.11.2 The FMA pursuant to its powers under the Act and with regard to EMS's status under the Act, can determine the fines, penalties or other actions it considers appropriate in respect of an Issuer's non-compliance with the Rules.

5.12 Contracts Privity Act to Apply

- 5.12.1 Subject to Rule 5.12.2, the provisions of the Rules are hereby declared to be a contract enforceable against each Issuer for the benefit of every person who is or was a holder of Quoted securities of that Issuer in the period in which the Issuer is or was Listed, and the Contracts (Privity) Act shall apply accordingly.
- 5.12.2 Nothing in Rule 5.12.1, or in the status of holders of Quoted securities referred to in that Rule as beneficiaries of the Rules under the Contracts (Privity) Act, shall:
- 5.12.2.1 Entitle such persons to take action against EMS, whether to challenge the right of EMS to exercise or not exercise its powers under the Rules in such manner as it thinks fit, or for the consequences of any such exercise or non-exercise; or
 - 5.12.2.2 Entitle any such person to raise a dispute under the provisions of the Disputes and Arbitration section 4.6 of these Rules; or
 - 5.12.2.3 Limit or affect the rights of EMS in respect of the Rules and in particular (but without limitation) the absolute discretion to make rulings and to change or revoke all or any of the Rules; or
 - 5.12.2.4 Entitle any person other than EMS to the benefit of, or to exercise, the rights and powers provided in the Inspection section 4.3 of these Rules; or
 - 5.12.2.5 Entitle any person to prior, or any, notice of a ruling; or

5.12.2.6 Entitle any person to pursue any proceedings to enforce any provision of the Rules which is the subject of a current ruling, other than on the basis of and in accordance with such ruling.

5.13 Costs

5.13.1 EMS shall have the right to recover all internal and external costs relating to an investigation of any breach of its Rules by that Issuer including any costs incurred as a consequence of the Issuer contesting any rule interpretation or decision to suspend or cease Quotation of that Issuers' securities. Such costs shall be the then market rates for time and attendances of EMS's staff, manager, directors or other such parties required to undertake such investigation.

5.13.2 The market rate for EMS staff, management or directors is the rate for the time being as posted on the Website under the Service and Fees tab. As at 31 December 2014 this rate was \$250.00 per hour.

5.14 Bond or Deposit

5.14.1 EMS may at any time, as a condition of proposed Listing or continued Listing, demand that the Issuer deliver to EMS a bond in a form approved by EMS, for an amount determined by EMS in accordance with Rule 5.14.2, and given by a person approved by EMS for this purpose. EMS may, in lieu of a bond, accept a deposit of money on such terms as EMS may determine.

5.14.2 Each deposit or bond made or given pursuant to the preceding Rule 5.14.1 shall be made or given to secure to EMS the payment of all moneys payable to EMS by the Issuer under the Rules where EMS considers at its absolute discretion that there is an apparent risk of non-recovery. EMS may from time-to-time determine the amount of each such deposit or bond. If EMS increases that amount, each Issuer shall upon request by EMS increase the amount of the deposit made by that Issuer, or procure the amount of the bond provided in respect of that Issuer to be increased. If any portion of a deposit or bond is applied in payment of moneys payable to EMS by the Issuer, the Issuer shall forthwith cause the deposit or bond to be reinstated to its previous amount.

6. Rules for Brokers and Market Conduct

6.1 Rules which apply to Brokers

- 6.1.1 The Foreword, Definitions, Interpretation and General sections in these Rules form and shall be read as part of these Market Rules for Brokers, referred to in the Broker Agreement.
- 6.1.2 Brokers may post Orders on the Market.
- 6.1.3 By notice to the Broker EMS may, in its absolute discretion, also impose additional conditions at any time that must be fulfilled by the Broker to maintain the right to post Orders.

6.2 Application Process

- 6.2.1 Applications for acceptance as a Broker to post Orders on the Market are made on the basis that acceptance or not is completely at EMS's discretion and no reasons may be given.
- 6.2.2 An application for acceptance as a Broker may be made by completing a Broker Application Agreement and submitting the prescribed fee, if any, and all relevant and requested information to EMS for its review and evaluation.
- 6.2.3 Provided all relevant and requested information is submitted with or before the application, applications by Brokers for approval to access the Market will be processed within three weeks (EMS encourages preliminary dialogue with Brokers to facilitate this).
- 6.2.4 Prospective Brokers need to meet the requirements of Rule 6.4 and be able to satisfy EMS that they can meet the settlement requirements of Rule 6.11 to the satisfaction of other Brokers as counterparties.
- 6.2.5 Applicants which are Licensed, or hold an equivalent status, outside of New Zealand may be accepted as Brokers. Before accepting any such application EMS will consider any submission from an existing Broker(s) showing good cause as to why the application should not be accepted.
- 6.2.6 Applications for access to the Market for posting Orders are made on the basis that acceptance or not is completely at EMS's discretion and no reasons may be given.

6.3 Broker Fees

- 6.3.1 The Broker must pay any prescribed Application Fee on application, and pay the current Annual Fee, if any, in quarterly payments by the due date as notified on EMS's quarterly invoices.
- 6.3.2 The Broker must pay the current applicable Transaction Fee in respect of each Sale Contract to which the Broker is a party by the due date as notified on EMS's quarterly invoices.

6.3.3 If the Broker does not pay the Transaction Fees in full by the due date, the Broker must pay interest on the outstanding amount at the rate of 10% per annum until payment is made.

6.4 Conduct

6.4.1 The Broker must ensure that at all times the Broker and persons acting on behalf of the Broker or in connection with EMS:

6.4.1.1 act with the level of skill and care expected of a competent and experienced professional Authorised Financial Adviser;

6.4.1.2 act honestly and with integrity, and observe proper ethical standards;

6.4.1.3 inform investors or potential investors about the risks of investing in securities Quoted on Unlisted which is not a Licensed FPM and operates under an exemption from subpart 7 of Part 5 of the Act and certain conditions specified in the Exemption Notice;

6.4.1.4 do not do or permit anything that is likely to be detrimental to the integrity or effectiveness of, or the confidence of investors in, Unlisted or FPMs in New Zealand;

6.4.1.5 be currently registered as a Financial Services Provider under the Financial Service Providers (Registration and Dispute Resolution) Act 2008, provide broking services both as principal and agent, and employ Authorised Financial Advisors pursuant to the Financial Advisors Act 2008; and

6.4.1.6 ensure that an authorised financial adviser is responsible for completion of the Investor Disclaimer and acceptance of Orders.

6.4.2 The Broker must be capable of meeting the Broker's financial obligations at all times. In particular, the Broker must ensure that:

6.4.2.1 at all times liquid assets (i.e. assets that are able to be liquidated within 20 days) exceed gross liabilities; and

6.4.2.2 that client assets held by the Broker are held in trust in accounts established for the purpose of holding clients assets.

6.4.3 The Broker must positively identify the person on each subsequent occasion who wishes the Broker to post an Order on his or her behalf.

6.4.4 The Broker must keep accurate and complete books of account and records relating to its business, including all transactions.

6.5 Investor Disclaimer and Trading

6.5.1 The Broker may only post Orders on behalf of a person who has executed (without amendment) the Investor Disclaimer available on the Website and provided by EMS to the Broker.

- 6.5.2 Before the Broker posts an Order on behalf of a person for the first time the Broker must:
- 6.5.2.1 obtain that person's signature on a copy of the Investor Disclaimer and witness such signature; and
 - 6.5.2.2 upon request, deliver to EMS the original executed and witnessed version of such Investor Disclaimer.
- 6.5.3 Trading on Unlisted will be carried out in accordance with the Trading Rules in these Rules and the Broker agrees to comply with such Rules at all times.

6.6 Sale Contracts

- 6.6.1 EMS has no obligation or liability to the Broker or anyone else in respect of Sale Contracts. Without limitation:
- 6.6.1.1 we have no obligation in respect of the performance of, and shall not be liable for any non-performance of, any Sale Contract;
 - 6.6.1.2 we have no obligation with respect to the title or transferability of securities subject to a Sale Contract and we shall not be liable for any failure to transfer good title to, or any inability to register the transfer of, such securities.

6.7 Notification

- 6.7.1 The Broker must immediately notify EMS (and provide such details as the Broker is able to provide) if the Broker becomes aware that:
- 6.7.1.1 any Broker participating on Unlisted has failed to settle a Sale Contract;
 - 6.7.1.2 any Broker participating on Unlisted is not meeting the conduct obligations in Rule 6.4 (all Brokers participating in Unlisted being subject to equivalent obligations); or
 - 6.7.1.3 Securities may be being offered on Unlisted in breach of the Act.

6.8 Investor Communications

- 6.8.1 In respect of any communication the Broker has with investors or potential investors and which promotes or otherwise refers to Unlisted, the Broker must ensure that:
- 6.8.1.1 the communication complies with the Broker's obligations under Rule 6.4.1;
 - 6.8.1.2 the communication includes a reasonably prominent statement in the following terms:
- 6.8.2 "Unlisted is not a Licensed Financial Product Market under the Financial Markets Conduct Act 2013. If you have any doubts about what that means ask your Authorised Financial Advisor."

6.8.3 At least 10 Business Days before issuing such communication, in respect of an Initial Public Offer or capital raising the Broker must provide EMS with a draft of the communication to enable EMS to verify compliance with the obligations of the Broker under rules 6.8.1, and not make or allow any statement or implication that is contrary to the statement in Rule 6.8.1.2 above.

6.9 Contracts Privity Act to Apply to Trading

6.9.1 The Trading Rules in these Rules confer, and are intended to confer, a benefit on each Broker under section 4 of the Contracts (Privity) Act. Accordingly, Buyers and Sellers shall be entitled to enforce Sale Contracts on the terms of these Trading Rules.

6.10 Trading Rules

6.10.1 Trading Hours

6.10.1.1 The trading hours of Unlisted will be from 9.00am to 5.00pm on Business Days (subject to the availability of the trading system). Current trading hours and changes to trading hours will be notified on the Website.

6.10.2 Orders

6.10.2.1 Orders may be entered by Brokers any time the trading system is available and will remain active until matched or amended or deleted. Amended Orders will be treated as new Orders.

6.10.2.2 Each Order posted on the Website must be firm and unconditional.

6.10.2.3 Each Order may be matched in whole or in part.

6.10.3 Market Phases

6.10.3.1 There are two trading phases that the Market will go through:

a) Pre-Opening;

b) Trading.

6.10.3.2 **Pre-opening Phase:** During the pre-opening phase, Market participants can enter new Orders into the Order book and amend or delete existing Orders. No Orders are executed during this phase. All Orders will be available for viewing. When the trading system is available outside trading hours the Market is in the pre-opening phase.

6.10.3.3 **Trading Phase:** Upon the trading phase commencing the automatcher routine shall run and attempt to match any bids and offers that have been entered during the pre-opening phase.

6.10.3.4 During the trading phase, Market participants can continue to enter new bids and offers.

- 6.10.3.5 During the trading phase and on input of every bid and offer, the trading system will again attempt to match Orders and create trades.
- 6.10.3.6 **Matching During Opening:** An opening algorithm shall be initiated at the opening of the market (and also any re-opening) and used to set an initial price.
- 6.10.3.7 Overlapping Orders are matched in accordance with the continuous matching with the exception that a single price will be allocated to all trades collectively matched within the opening.
- 6.10.3.8 The opening price is determined to be the average price of the last two opposing Orders that are collectively matched; rounded up to the next valid price point (tick).
- 6.10.3.9 **Matching During Trading Phase (Continuous Matching):** Continuous matching will be used to match overlapping Orders during normal market operations. Matching is performed on a basic price and time priority with priority at a price being given first to matching an individual participants own Orders and then to the remaining Orders at that price with priority afforded by time of entry of Order.
- 6.10.3.10 Where the limit price of overlapping buy and sell Orders is not the same then the price of the matched trade is set to be the limit price of the Order entered first.

6.10.4 Sale Contracts

- 6.10.4.1 The matching of two Orders (i.e. a bid to buy a security and an offer to sell a security) is deemed to create a binding contract of sale and purchase in respect of the applicable securities ("**Sale Contract**") between the Broker that posted the bid ("**the Buyer**") and the Broker that posted the offer ("**the Seller**").
- 6.10.4.2 When entering into Sale Contracts, Brokers are deemed to be contracting as principals.
- 6.10.4.3 EMS will send a transaction report to the Buyer and the Seller. The inclusion of a trade in a transaction report is prima facie evidence that the trade has occurred.
- 6.10.4.4 Obtaining registration of a transfer is the sole responsibility of the Buyer. Any refusal by the board of a company to register a transfer shall not invalidate a Sale Contract.
- 6.10.4.5 Brokers must issue written trade reports to their clients by the day following the Broker fulfilling a client Order.

6.11 **Settlement**

- 6.11.1 Sale Contracts are deemed to include a provision that the Buyer and the Seller will settle by the third Business Day following the date on which the Orders were matched, unless otherwise determined by mutual agreement between the Brokers

acting for the Buyer and Seller or agreed in writing between the Buyer and the Seller.

- 6.11.2 Except as provided for in Rule 6.11.4, the Buyer and the Seller will settle the Sale Contract by physical delivery:
 - 6.11.2.1 by the Seller of documents necessary to effect transfer of the securities subject to the Sale Contract, including: in the case of shares, a form of transfer in accordance with section 84(2) of the Companies Act 1993; and
 - 6.11.2.2 where share certificates have been issued in respect of the securities, such share certificates or evidence of their loss or destruction and, if required by the board of the company which issued the securities, an indemnity in a form required by such board (refer section 95(5) of the Companies Act 1993); and
 - 6.11.2.3 by the Buyer with payment in same day cleared funds.
- 6.11.3 The Seller must ensure that securities transferred by it are free from all:
 - 6.11.3.1 security interests (as defined in section 17 of the Personal Property Securities Act 1999);
 - 6.11.3.2 liability due or payable at the time of the Sale Contract; and
 - 6.11.3.3 pre-emptive rights.
- 6.11.4 Where the securities that are the subject of the Sale Contract are held on a register which is part of a system approved for the electronic transfer of securities under the Act and the selling and buying Brokers are participants in that system, the Sale Contract may be settled by means of electronic delivery and payment through that system.
- 6.11.5 Where a benefit, entitlement or right ("**Right**") arises after the date of the Sale Contract and the time for taking up the Right will expire prior to settlement:
 - 6.11.5.1 the Seller must, if instructed to do so in writing by the Buyer, take up the Right;
 - 6.11.5.2 if the Buyer instructs the Seller to take up the Right:
 - a) the Buyer must reimburse the Seller on demand the cost (if any) of taking up the Right; and
 - b) the Seller must transfer the Right to the Buyer on settlement.
- 6.11.6 Where there is a takeover offer for securities to which a Sale Contract relates and the time for accepting the takeover offer will expire prior to settlement of the Sale Contract:
 - 6.11.6.1 the Seller must, if instructed in writing by the Buyer to do so, accept the takeover offer; and

6.11.6.2 if the Buyer has instructed the Seller to accept the takeover offer and the relevant securities have been sold as a result, the Seller's obligation on settlement will be to pay to the Buyer in same day cleared funds the amount of the payment received for the securities or, if the Buyer has not yet received payment, to transfer to the Buyer the right to receive such payment.