

Unlisted

Investor Information and Disclaimer Form

SCHEDULE 2 - UNLISTED DISCLAIMER

1. **Unlisted is Not a licensed financial**

product market: Unlisted is a financial product market operating under an exemption from subpart 7 of Part 5 of the Financial Markets Conduct Act 2013 ("the Act") and certain conditions specified in the Exemption Notice.

2. Unlisted is operated by Efficient Market Services Limited ("EMS"), primarily for the trading of previously allotted securities of issuers ("Unlisted Issuers") by brokers, on behalf of their clients.

3. **You trade at your own risk:** If you choose to trade in the securities of Unlisted Issuers, you do so entirely at your own risk. In particular:

(a) Unlisted Issuers and trading in their securities are not subject to investor protections available under the Act, specifically the provisions that apply to issuers listed on a licensed financial product market and to trading on such a market, including for insider trading, market manipulation, continuous disclosure, substantial holding disclosure, relevant interest disclosure, and the monitoring of market obligations by the Financial Markets Authority ("FMA"); nor are there any of the other protections for investors that may be contained in the listing rules of a licensed financial product market. The investor protections that do not apply to trading on Unlisted are described in

more detail at clause 9 of this disclaimer;

(b) EMS does not monitor or enforce compliance by Unlisted Issuers with the law (including company and securities laws).

(c) Unlisted has its own Market Rules ("Rules") and monitors compliance by Unlisted Issuers with those Rules.

Further information about what the fact that Unlisted is not a licensed financial product market means for investors is given in clause 9 below.

4. **Not investment advice:** You should obtain independent investment advice before you make any investment decisions.

The Unlisted website ("the Website") provides general information only. The content of the Website is not intended to be investment advice and you should not treat it as such. We have not considered the merits of, or the merits of investing in, the securities of any Unlisted Issuers. We make no recommendation or endorsement regarding the securities of, or investing in, any Unlisted Issuer and you should not treat the quotation of securities on Unlisted as being a recommendation or endorsement by us.

5. **No responsibility in respect of brokers:** Trading on Unlisted is undertaken by certain registered stockbrokers. You acknowledge and agree that EMS has no responsibility, and will not be held responsible in any way, for any act

or omission of any broker. Without limitation, EMS:

- (a) is not liable for any failure by any broker to pay any money that is due to you, or any loss you may incur due to the negligence, fraud or insolvency of any broker;
- (b) does not provide any guarantee in respect of any broker;
- (c) has no responsibility for any investment advice provided by any broker.

Brokers are not the agents of EMS and have no authority to make representations on behalf of, or to bind, EMS.

6. **No responsibility for information posted by Unlisted Issuers:** Unlisted Issuers have the ability to post announcements and other information ("Information") on the Website. EMS does not in any way supervise, edit or control the content of such Information. Accordingly:

- (a) no representation or warranty is given as to the reliability, accuracy or completeness of such Information;
- (b) if you rely on such Information you do so entirely at your own risk;
- (c) you acknowledge and agree that EMS will not be held responsible in any way in respect of such Information.

7. **Exclusion of liability:** Neither EMS nor any of its directors, employees, agents or related companies shall be liable in any way for any loss or damage of any kind (including direct, indirect or consequential loss, loss of profits, or special damage) howsoever arising (whether in negligence or otherwise) out of or in connection with:

- (a) the Website, information contained on or omitted from the Website, or the use of or inability to use the Website;
- (b) any decision made in reliance on any information contained on the Website;
- (c) any trading of, or decision not to trade, securities of Unlisted Issuers,

subject to any rights you may have under the Consumer Guarantees Act.

In the case of goods or services supplied or offered by EMS, its directors, employees, agents or related companies, liability for breach of any implied warranty or condition which cannot be excluded is limited at EMS's option to either:

- (a) the supply of the goods (or equivalent goods) or services again; or
- (b) the payment of the costs of having the goods (or equivalent goods) or services supplied again.

8. **Governing Law:** This disclaimer is governed by New Zealand law. You agree that any dispute arising from or in connection with this disclaimer is subject to the non-exclusive jurisdiction of the courts of New Zealand.

9. What does the fact that Unlisted is not a licensed financial product market mean?

- 9.1 Unlisted is not subject to the same legislative provisions as a licensed financial product market.
- 9.2 Licensed financial product markets are required to have detailed rules relating to the governance and conduct of their listed issuers, and the conduct of participating brokers. Compliance with those rules is monitored and enforced by the market operator. Unlisted does not offer such protections.

- 9.3 The rules of licensed financial product markets are vetted, and can be disallowed, by the FMA. Licensed financial product markets are also subject to a specific FMA monitoring regime. No such vetting or monitoring applies to Unlisted.
- 9.4 Issuers listed on a licensed financial product market and trading of their securities are subject to a number of requirements under the Act which do not apply to Unlisted Issuers and trading of their securities. In particular:
- (a) *Insider trading*: Trading by a person who, due to some connection with an issuer listed on a licensed financial product market, has material information not generally available is an offence. This is not the case on Unlisted. Directors of Unlisted Issuers are subject to the more limited insider trading restriction in the Companies Act.
 - (b) *Market Manipulation*: A person trading on a licensed financial product market is specifically prohibited from creating a false or misleading appearance with respect to trading in quoted financial products on that market. That is not the case for trading on Unlisted, though fraud and misrepresentation are illegal, and Brokers who trade on Unlisted have separate obligations (as Authorised Financial Advisers and registered financial service providers) to ensure fair dealing and no market manipulation.
 - (c) *Continuous disclosure*: Issuers listed on a licensed financial product market are required to inform the market of events and developments relevant to the price of their securities as they occur. Unlisted Issuers are not subject to this requirement under the Act.
 - (d) *Substantial holding disclosure*: A person with an interest in 5% or more of the voting securities of an issuer listed on a licensed financial product market must disclose that fact, and any 1% changes in their holding, to the issuer and the licensed financial product market. This is intended to ensure disclosure of major interests and thereby to discourage abuse in transactions entered into by such persons. Unlisted Issuer substantial security holders and Unlisted Issuers are not subject to this requirement under the Act.
 - (e) *Director's and senior managers relevant interest disclosure*: Directors and senior managers of issuers listed on a licensed financial product market must promptly report their relevant interests in the issuer and any changes in these. Unlisted Issuers are not subject to this requirement, but subject to the disclosure of interests obligations of the Companies Act.
- 9.5 The FMA oversees compliance of issuers listed on a licensed financial product market with the Act and compliance of the licensed financial product market with continuing obligations. Unlisted Issuers are only subject to certain FMA oversight (for example, compliance with the capital raising provisions of the Act). Unlisted is not subject to the continuing obligations supervision of the FMA.
- 9.6 Issuers listed on a licensed financial product market are also automatically subject to the Takeovers Code. Unlisted Issuers will only be subject to the Takeovers Code if they are incorporated in New Zealand and have 50 or more shareholders and 50 or more share parcels. The purpose of the Takeovers Code is to ensure that in the event of a takeover offer or the triggering of a requirement to make such an offer a prescribed procedure is followed to ensure everyone concerned is fully

informed and that a fair price should be paid for all securities acquired.

- 9.7 The conditions of the Unlisted exemption from the licensing provisions of the Act require that Unlisted's Market Rules require Unlisted Issuers to comply with the Act's financial reporting requirements, and that Unlisted Issuers must make their annual audited accounts public.

I have read and understood this disclaimer and in consideration for EMS allowing me to trade (via a broker) using Unlisted, I agree in favour of EMS to be bound by the terms of this disclaimer.

Signature

Name

Date

Witness or Broker Signature confirmation:

Witness or Broker Signature

Witness or Broker Name

Date