# MALABAR RESOURCES LIMITED

## CORPORATE ETHICS POLICY

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**H. Corporate Ethics Policy**

H. 1 ***Introduction***

Directors of the Company are subject to certain stringent legal requirements regulating the conduct both in terms of their internal conduct as directors of the Company and in their external dealings with third parties both on their own behalf and on behalf of the Company. To assist directors in discharging their duty to the Company and in compliance with relevant laws to which they are subject, the Company has adopted the following Corporate Ethics Policy (Policy).

This Policy sets out rules binding Directors in respect of:

a) a Director's legal duties as an officer of the Company;

b) a Director's obligations to make disclosures to ASIC and the market generally; and

c) dealings by Directors in securities in the Company.

H. 2 ***Directors' Powers and Duties***

Each Director of the Company is required to comply strictly with the legal, statutory and equitable duties as an officer of the Company. Broadly, these duties are:

a) to act in good faith and in the best interests of the Company;

b) to act with due care and diligence;

c) to act for proper purposes;

d) to avoid conflicts of interest or duty; and

e) to refrain from making improper use of information gained through the office of Director, or taking improper advantage of the office of Director.

H. 3 ***General***

Directors of companies owe a variety of duties to those companies which may impact upon the appropriateness of their attendance and participation in meetings of the board of directors. These duties arise as a result of the general law and also under the Corporations Act.

Directors should be aware that if they breach their fiduciary duties to the Company, they may be liable to account to the entity for any profit they derive or indemnify the entity against any loss their breach has caused.

Breaches of the *Corporations Act* duties may also give rise to an action for damages, fines and penalties or disqualification.

***Common Law Fiduciary Duties***

A director is said to be in a fiduciary, as opposed to an arm's length, relationship with the Company. As such a director will owe various fiduciary duties to the Company which underlie matters relating to the conduct of a director, including attendance and participation at meetings. The positive duties of a director include the duty to act in good faith in the best interests of the Company, to act for proper corporate purposes and to give adequate consideration to matters for decision and to keep discretions unfettered.

***Corporations Act***

A director of a corporation will also be subject to duties imposed by the *Corporations Act*. They include the duty to exercise care and diligence, to exercise their powers in good faith and for a proper purpose and not to misuse their position or information obtained from their position to gain an advantage for themselves or others or cause detriment to the company.

H. 4 ***General Duties of Directors***

**a) Proper Corporate Purpose**

*General law duty - to act for proper corporate purposes.*

The duty to act for proper corporate purposes requires directors to exercise the powers granted to them for the purpose for which they were given, not for collateral purposes.

**b) Adequate Consideration**

*General law duty – to give adequate consideration and duty not to fetter a director's discretion*

The duty to give adequate consideration to matters for decision and to keep discretions unfettered requires directors to give adequate consideration to matters when exercising their discretions. They must take positive steps to inform themselves about matters and not simply acquiesce in the decision-making process.

**c) Care and Diligence**

*General law and Corporations Act duty – to act with a reasonable degree of care and diligence in exercising a director's powers and discharging a director's duties*

Under the *Corporations Act*, a director must exercise their powers and discharge their duties with the degree of care and diligence that a reasonable person would exercise if they:

(1) were a director of a corporation in the same circumstances as the Company; and

(2) occupied the same office and had the same responsibilities as the director.

Case law on these provisions illustrates that the scope of the obligation of care and diligence will depend upon the nature of the director's role and their position with

the Company. For instance, executive directors will generally be subject to a higher standard of care than non-executive directors. It has been held that a Chairperson of a Company who is also Chairperson of the Audit Committee may have a higher duty of care than a non-executive director.

Apart from the *Corporations Act* obligation, a failure of a director to act with a reasonable degree of care and diligence is also likely to be considered negligent.

*Business Judgment Rule*

The Corporations Act provides for a mechanism for directors to avoid a breach of their duty of care and diligence where certain parameters are met. This is known as the 'business judgment rule'. All directors of the Company are expected to be familiar with this rule. In summary, a director who makes a business judgment is taken to meet the duty of care and diligence (whether under statute or the general law) if they:

(1) make the judgment in good faith and for a proper purpose;

(2) do not have a material personal interest in the subject matter of the judgment;

(3) inform themselves about the subject matter of the judgment to the extent they reasonably believe to be appropriate; and

(4) rationally believe that the judgment is in the best interests of the corporation.

The director's or officer's belief that the judgment is in the best interests of the corporation is rational one, unless that belief is one that no reasonable person in their position would hold.

A 'business judgment' is any decision to take, or not take, action in respect of a matter relevant to the business operations of the corporation.

Whilst the business judgment rule assists directors to avoid a breach of their duty of care and diligence both under the *Corporations Act* and under the general law, it does not relieve breaches of the other duties of directors, whether under the *Corporations Act* or otherwise, described above.

**d) Act in Good Faith**

*General law and Corporations Act duties:*

(1) *To act in good faith in the best interests of the Company*

(2) *To act for a proper purpose*

(3) *Not to improperly use the director's position*

(4) *Not to improperly use information obtained by virtue of the director's position*

The duty to act in good faith in the best interests of the company requires directors to use their discretions honestly and with reasonable care and diligence for the purposes for which they were conferred. Directors must not promote his or her personal interest by making or pursuing a gain in circumstances in which there is a conflict, or a real possibility of a conflict, between his or her personal interests and those of the company. Additionally, a director must not act to promote the interest of a third person where there is a conflict, or a real possibility of conflict, between duties owed by the fiduciary (on the one hand) to the company and (on the other hand) duties owed to the third person.

H. 5 ***Avoiding Conflicts***

***Attending and Participating in Board Meetings***

The duties in relation to conflict are of particular importance when a director is considering whether or not they should attend and participate in Board meetings.

This rule requires a director to avoid situations in which there is a 'real and sensible possibility' of conflict between the director's personal interests and the company's interests. This duty is also of particular significance where directors hold multiple directorships. Whilst merely holding multiple directorships, even in competing companies, is not a breach of the rule against conflict, the rule will be breached if the director discloses confidential information which the director has gained as a result of their directorship of the other company. Consequently, if a director has a conflicting personal interest, whether direct or indirect, in a matter to be discussed at a board meeting, they should firstly disclose this matter to the Board and secondly consider whether participating in the matter would result in a breach of their fiduciary duties.

***Material Personal Interest***

A director who has a material personal interest in a matter that relates to the affairs of the Company is required to disclose this to the Company.

Directors of the Company who have a material personal interest in a matter generally must not attend a directors meeting while the matter is being considered or vote on the matter.

However, a director may do these things if a resolution of the Board is passed to this effect, or if ASIC consents.

Despite this, the same cautions must be exercised as discussed above, if the other directors consent to a conflicting director's participation in the meeting. The conflicting director should ensure that participation would not be in breach of their fiduciary duties or the duties imposed by the *Corporations Act*.

***Common Directorships***

These duties become particularly relevant where companies have directors in common and a decision involving a potential conflict of interest is required to be taken by one of the companies. In this case it is prudent for the common directors not to participate in the relevant Board's decision-making process on that matter.

***Directors Providing Services to the Company***

In order to capitalise on the professional/technical expertise or experience of directors of the Company from time to time (other than in their capacity as directors), the Company may engage the services of that director (or a firm associated with the director) only on the following terms and conditions:

a) the scope of the consultancy (or other services) is identified, together with a schedule of estimated costs and charge out rates to be incurred with the director or their firm;

b) (where considered necessary or appropriate) the non-conflicted directors seek additional quotations for the same services; and

c) the consultancy services are approved by the non-conflicted directors.

H. 6 ***Confidentiality***

Directors of the Company will have access to any information which the Directors may consider necessary to perform their responsibilities and exercise their independent

judgment when making decisions. All information received by a Director in these circumstances must be considered confidential and at all times remains the property of the Company.

Any confidential information of the Company acquired by a Director during the Director's appointment must not be disclosed by the Director, or the Director must not allow it to be disclosed, to any other person unless the disclosure is authorised by the chairperson or is required by law or regulatory body (including a relevant securities exchange).

H. 7 ***Independence***

The Board is required to regularly assess the independence of Directors to ensure that Directors do not have any relationship or interest that interferes with their unfettered and independent judgment or could reasonably give the impression that the Director's independence has been compromised.

Set out in Section **Error! Reference source not found.** is a Charter applying to the Corporate Governance Committee, which is charged with assessing the independence of Directors on behalf of the Board.

Directors are required to co-operate fully with any assessment process and give all reasonable information requested.

Directors are required to fully and frankly tell the Board about anything that:

a) may lead to an actual or potential conflict of interest or duty;

b) may lead to a reasonable perception of an actual or potential conflict of interest or duty;

c) interferes with a Director's unfettered and independent judgment; or

d) could reasonably give the impression that a Director's independence has been compromised.

Directors are also required to tell the Company about any interest which they may have in securities of the Company (or of a related body corporate) or interest in any contract relating to those securities. This is discussed in greater detail below.

H. 8 ***Dealings by Directors and others in Securities of the Company***

The Company strongly encourages its Directors and employees to become securityholders in the Company. However, when a Director trades in securities of the Company it is important to ensure that these transactions do not reflect badly on either the Director or the Company. This section of the Policy is designed to ensure that Directors do not deal in securities of the Company at inappropriate times or in inappropriate circumstances.

When buying or selling securities in the Company, Directors must ensure that they do not contravene the insider trading provisions contained in Part 7.10 of the Corporations Act. Inside information is information that is not generally available which could reasonably be expected to have a material effect on the price or value of securities of a body corporate. Information is taken to have 'material effect' on the price or value of a security if it would be likely to influence persons who commonly invest in securities in deciding whether or not to subscribe for, buy, or sell the securities. Thus, to constitute inside information the information must be both price sensitive and not generally

available.

It is readily apparent that Directors of the Company in the course of carrying out their duties often possess information which would be regarded as inside information under the Corporations Act. The following are examples of information which could be regarded as inside information:

a) proposed strategic business acquisition;

b) financial records not yet released to the market; and

c) a proposed takeover not yet announced to the market.

Where Directors possess inside information, they must not engage in dealings with the securities of the Company and cannot, either directly or indirectly, communicate the inside information to other persons. Directors can be liable for insider trading if they recommend the Company's securities to other persons while they are in possession of price sensitive information which is undisclosed to the general public. Directors should be aware that they can be liable for insider trading by communicating inside information to other persons, for example their spouse, family or friends. This liability arises notwithstanding the fact that the Director has not dealt with the securities of the Company. Spouses, family or friends who learn inside information and subsequently act on it before the information becomes public can also be held liable for insider trading.

It is therefore essential that all Directors avoid direct or indirect communication of price sensitive information before it enters the public domain. It is equally essential that directors refrain from trading in securities of the Company whilst they possess such information.

H. 9 ***Restrictions on Directors' Dealings with Company Securities***

As a general policy, before engaging in transactions involving the securities of the Company, a Director must notify the Chairperson of the intended transaction at least 24 hours beforehand. It is then a matter for the Chairperson to advise other directors of the intended course of action.

The Company's policy regarding dealings by Directors in the Company's securities is that Directors should **never** engage in short term trading and should not enter into transactions in the following circumstances:

a) When they are in possession of price sensitive information not yet released by the Company to the market; or

b) The period commencing one week before and one Business Days after:
   (1) the announcement to ASIC of the half year results;
   (2) the announcement to ASIC of the full year results; and
   (3) the annual general meeting,

   or such shorter period as may be approved of by the Board of Directors after receipt of notice of intention to buy or sell by a Director to other members of the Board.

In relation to 'price sensitive information', all Directors will be conscious of the fact that, as the Company is an unlisted disclosing company, it has an obligation the Act and RG 198 to make continuous disclosure. Briefly stated, that is an obligation to advise the market as soon as events and developments occur which result in the

information that a reasonable person would expect to have a material effect on the price or value of the Company's securities.

The obligation is **not** absolute and there are a number of exceptions to when 'price sensitive information' need not be disclosed, which are addressed below.

Accordingly, there **will** be occasions where price sensitive information is in the possession of some or all of the Directors and not yet released to the market, nor required to be released.

In relation to the half-yearly and annual reports, it is apparent that these reports will contain financial information concerning the Company. That information will be collated by the Company's auditors based on management accounts. It is a notorious fact that at some time before preparation of the audited yearly and annual reports, some or all of the Directors will have access to the financial figures based on the data coming from the management accounts. That being so, that material may, in appropriate circumstances, be price sensitive information not yet released. For example, a company may have glowing half year profits at the commencement of the half year and then find, based on its management accounts that it fell well behind or will fall well behind (as the case may be) those profit forecasts. That would classically be a case when any Directors in possession of such information could not deal in the Company's securities.

However, Directors will generally be permitted to engage in trading (subject to due notification being given to the Chairperson) at the following times:

a) For the Dealing Window period (period other than the Blackout Period);

b) Where price sensitive information is released to the market and trading is otherwise permitted, for a period commencing one (1) Business Days following the release of price sensitive information to the market which allows a reasonable period of time for the information to be disseminated among members of the public; and

   It is strongly recommended that at least one (1) Business Days be allowed on the basis that, under the *Corporations Act*, Directors will only be protected following disclosure to the market of price sensitive information if that information has become generally available. The *Corporations Act* contains no specific definition, but does indicate that information is 'generally available' if it has been made known in a manner that would or would be likely to bring it to the attention of persons who commonly buy and sell securities in companies of a kind whose price or value might be affected by the information that has been released.

c) Where the proposed acquisition of securities is under:

   (1) the announcement to ASIC of the half year results;

   (2) a bonus issue made to all shareholders;

   (3) a dividend reinvestment or top up plan available to all shareholders; and

(4) an employee share plan.

H. 10 ***The Company's Obligation of Continuous Disclosure***

**a) The Corporations Act**

As an unlisted disclosing entity, the Company must comply with certain continuous disclosure obligations imposed by section 675 of the Act. ASIC has released Regulatory Guide 198 to assist companies comply with these reporting requirements.

Section 675 (2) states the following:

*"If the disclosing entity becomes aware of information:*

(1) *that is not generally available; and*

(2) *that a reasonable person would expect, if it were generally available, to have a material effect on the price or value of ED securities of the entity; and*

(3) *either:*

*(i) if those securities are not managed investment products or foreign passport fund products--the information is not required to be included in a supplementary disclosure document or a replacement disclosure document in relation to the entity; or*

*(ii) if those securities are managed investment products or foreign passport fund products--the information has not been included in a Product Disclosure Statement, a Supplementary Product Disclosure Statement, or a Replacement Product Disclosure Statement, a copy of which has been lodged with ASIC; and*

(4) *regulations made for the purposes of this paragraph do not provide that disclosure under this section is not required in the circumstances;*

*the disclosing entity must, as soon as practicable, lodge a document with ASIC containing the information."*

**When is the Company aware of information?**

The Company is aware of information if a Director or executive officer has, or ought reasonably to have, come into possession of the information in the course of the performance of their duties as a Director or executive officer of the Company. An "executive officer" of the Company means a person who is concerned in, or takes part in, management of the Company. A person can be an executive officer regardless of his or her designation, and irrespective of whether or not the person is a Director.

**When information is generally available?**

Section 676 (2) of the Act states that:

*"Information is generally available if:*

*(1) it consists of readily observable matter; or*

*(2) without limiting the generality of paragraph (1), both of the following subparagraphs apply:*

*(A) it 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 securities of a kind whose price or value might be affected by the information; and*

*(B) since it was so made known, a reasonable period for it to be disseminated among such persons has elapsed.*

*(3) information is also generally available if it consists of deductions, conclusions or inferences made or drawn from either or both of the following:*

*(A) information referred to in paragraph (2)(1);*

*(B) information made known as mentioned in subparagraph (2)(2)(A)."*

**What information has a material effect on price?**

The effect of information on the price or value of the Company securities is to be judged by the expectations of a "reasonable person". A reasonable person would expect information to have a material effect on the price or value of the Company securities if the information would, or would be likely to, influence investors who commonly invest in securities in deciding whether or not to deal in the Company securities.

**b) Continuous Disclosure Obligations**

*Regulatory Guide (RG) 198: Unlisted disclosing entities: Continuous disclosure obligations* sets out good practice guidance for unlisted disclosing entities.

Examples of disclosure obligations (list is not exhaustive):

| **Disclosure obligation** | **Who does the obligation apply to?** | **Summary of obligation:** |
|---|---|---|
| Continuous disclosure | All unlisted disclosing entities | Must lodge material information with ASIC or follow the good practice guidance for website disclosure set out in RG198. |
| Disclosure for offers of securities | Entities offering securities to retail investors | Must provide retail investors with a prospectus (or other disclosure document). There are obligations to update investors for new material information via a supplementary or replacement prospectus. |
| Financial Reports | Unlisted disclosing entities that are incorporated in Australia | Must lodge audited annual and half-yearly financial reports with ASIC. Must make annual report available to investors in accordance with section 314 of the Act. |

The Company follows the good practice guidance set out by RG198 for website disclosure of material information which includes:

a) All material information is included on the Company's website;

b) Investors are able to find material information easily and determine its significance for them;

c) Company's website is to clearly indicate when each item of material information is first published;

d) Any new material information is to be included on the Company's website as soon as practicable; and

e) Information is kept on the website for as long as it is relevant and appropriate supporting records are kept.

Examples of the type of material information what ASIC suggests is disclosed on the Company's website (list is not exhaustive):

| **Disclosure obligation** | **Summary of obligation:** |
|---|---|
| Financial forecasts/ valuations/ ratings | • A material change in previously released financial forecasts or expectations for an unlisted disclosing entity.<br>• A material change in the value of the underlying assets an unlisted disclosing entity holds.<br>• Any rating applied to an unlisted disclosing entity or it's securities, or any change to such a rating. |
| Debt funding | • Information about any material change to the status or terms of the disclosing entity's deft funding.<br>• Information about any material breaches by the entity of loan covenants. |
| External administration | • The appointment of any external administrator to the Company |
| Corporate Actions | Information about corporate actions that are likely to affect the value of investors' securities – for example:<br>• a securities placement; or<br>• a share buy-back of which not all investors have been notified. |

**c) Ramifications of Failing to Comply**

Section 675 (2A) of the Act states that failure to comply with section 675(2) is an offence and the Criminal Code has application (section 678). A person involved in contravention of section 675 could also be subject to civil liability.

**Civil Liability**

Civil liability arises if the failure to disclose is intentional, reckless or negligent. A person who suffers loss or damage as a result of such failure may recover that loss or damage from the Company, or against 'any person involved in the contravention". This would include the directors and executives' officers of the Company.

**d) Exemption from Disclosure**

RG 198 does not provide exemptions from continuous disclosure for unlisted disclosing entities therefore, the Company has adapted the Listing Rules to provide guidance on information that the Company does not need to disclose.

Under Listing Rule 3.1A if **each** of the following is satisfied the information does not need to be disclosed.

(1) A reasonable person would not expect the information to be disclosed (Listing Rule 3.1A.1); **and**

(2) The information is confidential (Listing Rule 3.1A.2); **and**

(3) One or more of the following applies (Listing Rule 3.1A.3):

  (A) it would be a breach of a law to disclose the information;

  (B) the information concerns an incomplete proposal or negotiation;

  (C) the information comprises matters of supposition, or is insufficiently definite to warrant disclosure;

  (D) the information is generated for internal management purposes of the Company; or

  (E) the information is a trade secret.

It must be noted that the above exemption from the requirement to make disclosure only **operates while all three elements are satisfied. If any of the requirements cease to be satisfied, the entity must disclose the information immediately.**

By way of example, if information that has not been disclosed by relying on the exemption becomes known in some way to participants in the market, then it must be given to ASIC and disclosed on the Company's website, as it would no longer satisfy the confidentiality requirement. If does not matter how the matter became known in the market.

Looking at each of the three elements that must be established for information to be exempt from disclosure:

(1) **A reasonable person would not expect the information to be disclosed** (Listing Rule 3.1A.1)

  A reasonable person would not expect information to be disclosed if the result would be to cause unreasonable prejudice to the entity. Similarly, a reasonable person would not expect disclosures of an inordinate amount of detail.

(2) **Confidentiality** (Listing Rule 3.1A.2)

  Listing Rule 3.1A.2 requires that the information that is not to be disclosed be confidential. 'Confidential' in this context has the sense of secret, and generally implies control by the Company of the use that can be made of the information. The mere fact that a confidentiality agreement has been entered into will not automatically satisfy this element. Confidential means that no one in possession of the information is entitled to trade in the

Company's securities. Unusual activity in the Company's securities may suggest that the information is no longer confidential. Confidentiality is not breached if information is given to the Company's advisers, a person with whom the Company is negotiating, or other regulatory authorities, if it is given on a basis which restricts its use to the stated purpose.

(3) **One of the Elements in Listing Rule 3.1A.3**

One of the five elements in Listing Rule 3.1A.3 must also be established. Refer to d) (3) above.

**e) Applying the Exemption in Practice**

The exemption from disclosure would apply, for example, to information which is confidential, which a reasonable person would not expect to be disclosed, and which falls within any one of the following descriptions:

(1) proposed acquisitions or disposals or other commercial arrangements in the process of negotiation;

(2) internal budgets and forecasts;

(3) management accounts;

(4) business plans;

(5) internal market intelligence;

(6) information prepared for lenders;

(7) dispute settlement negotiations.

It is possible to foresee, however, matters which are commercially sensitive, the disclosure of which would be **detrimental** to the Company, which may be required to be disclosed because they do not fall within the exemptions. For example:

(1) a serious claim against the Company prior to the commencement of proceedings;

(2) an investigation or allegation by a regulatory body (that is not being disputed by the Company);

(3) information about a 'complete' proposal;

(4) terms of settlement of a dispute which the parties wish to keep confidential, and which is not supported by a Court order of confidentiality;

(5) material terms of a trading agreement with a major supplier.

Whether these sorts of matters will fall within any of the exceptions will depend on, and require, an assessment of particular facts.

**f) Continuous Disclosure Principles**

**(1) Prime Importance**

Timely disclosure of relevant information is of prime importance to the operation of an efficient market. The fundamental principle under which the *Corporations Act 2001* operates is that timely disclosure must be

made of information in which security holders, investors and ASIC have a legitimate interest.

**(2) Continuous Disclosure Practice**

The Company's Corporate Governance Charter must be complied with in the 'spirit' of continuous disclosure. The Company's Corporate Governance Charter is not intended to be interpreted in a legalistic or restrictive manner.

**(3) Market Speculation**

From time to time it may be necessary to respond to speculation in order for the market to remain properly informed. The Company is not expected to respond to all comments make in the media, or to respond to all market speculation. However, when the comment or speculation becomes reasonably specific, or the market moves in a way that appears to be referrable to the comment or speculation, the Company should make a statement in response to ensure the market remains properly informed. Whatever the information, and however much it might otherwise have been reasonable not to disclose it, the information should be released to the whole market once it becomes known to any part of the market.

**(4) Disclosure of Information to Brokers and Press**

The Company must not release information which is for release to the market to any person (including the media, even on an embargoed basis) until it has given the information to ASIC (if material information) and lodged the information on the Company's web-site. With respect to analysts, the Company must only disclose public information in answering analysts' questions or reviewing analysts' draft reports. It is inappropriate for a question to be answered, or a report corrected, if doing so involves providing material information that is not public. When analysts visit the Company, care should be taken to ensure that they do not obtain material information that is not public.

**(5) Internal Disclosure**

Employees will have access to information that is confidential. The employees with such access should be made aware of its confidential nature. The Company should ensure that confidential information does not find it was into 'in house' publications.

**g) Analyst and Institutional Briefings**

In November 1999 ASIC issued its draft "Heard it on the Grapevine …' Guidance Paper dealing with the selective disclosure of information to institutional investors and analysts.

This Guidance Paper addresses ASIC's concern that 'ordinary" shareholders have a perception that significant information is disclosed by listed companies to

analysts and institutions such that they can profit by trading on that information at the expense of the 'ordinary' shareholders. ASIC is concerned that this perception could cause "ordinary" shareholders to lose trust in the fairness of the market place.

In this regard, documents lodged with ASIC and on the Company's web-site are often supplemented with more comprehensive background information provided to analysts and institutions at private briefings.

ASIC specifically identifies the following situations at which there is a risk that selective disclosure may occur:

(1) analyst briefings, roadshows and presentations;

(2) individual analyst briefings;

(3) ad hoc communications with analysts and institutions;

(4) reviewing draft analyst reports;

(5) informal social events.

ASIC states that it wishes to see companies exploring ways of improving investor access, both to:

(1) their market announcements; and

(2) all significant information provided at private briefings to analysts or institutions (regardless of whether it is viewed as price sensitive).

To this end:

(1) information disclosed to ASIC must be added to the releasing company's web site;

(2) non-material information and supplementary material made available to institutions and analysts are to be made available to shareholders and the wider investment community on the Company's web site.

ASIC notes that some companies are giving investors access via the internet to live broadcasts of analyst briefings and are posting transcripts of briefings (including questions and answers) on their web sites. ASIC states that it encourages other companies to follow these practices. ASIC in its Paper suggests a number of procedures to ensure that:

(1) price sensitive material is disclosed to the market;

(2) briefings do not disclose price sensitive material that has not been released; and

(3) information disclosed at private briefings is captured for disclosure to 'ordinary investors',

such that there is equal access to information for all investors. Certain of these ASIC suggestions are incorporated in the Disclosure Programme set out in (h) below.

ASIC's focus is on giving investors access to all significant information disclosed to analysts or institutions that is not already publicly available, regardless of

whether it is considered price sensitive. ASIC considers it is good practice to provide shareholders with access to all significant background information that is provided to analysts and institutions

**h) Analyst and Institutional Briefings**

As will be apparent from the above, it is essential for the Company to design a disclosure system to ensure:

(1) a breach of Section 675 (2) does not occur; and

(2) that information is made available to all investors equally.

(3) **Directors and Executive Officers**

Each of the following personnel (the '**Reporting Group**') will need to participate in the 'continuous disclosure' system, because information in their possession will need to be considered in order to comply with the continuous disclosure obligation:

(A) the Directors

(B) Managing Director or Chief Executive Officer

(C) Chief Financial Officer and Company Secretary

(4) **Overseeing and Co-ordinating Disclosure**

The Chairperson, Managing Director (or Chief Executive Officer) and Company Secretary will be responsible for:

(A) ensuring the Company complies with its continuous disclosure obligations (i.e. market sensitive material)

(B) overseeing and co-ordinating disclosure of information in relation to the RG 198 Continuous Disclosure requirements

(C) reviewing information to be provided to analysts, brokers, the media and the public, in order to be able to ensure any market sensitive material has been submitted to ASIC.

(5) **Information Collecting Procedures to ensure Listing Rule 3.1A (market sensitive information) is identified**

The responsibilities of each member of the Reporting Group are:

(A) To ensure all notifiable (market sensitive) information is kept confidential within Reporting Group;

(B) To collect and forward to the Chairperson, Managing Director or Chief Executive Officer and Company Secretary all information which is, or may be required to be disclosed, and consult with him if in doubt;

(C) To make senior personnel within his or her area of responsibility aware of the Company's disclosure obligations to ensure that all relevant information is provided to him or her.

(6) **Releasing Information to the ASIC**

The system for releasing information to the ASIC for the Company is as follows:

(A) When any of the Reporting Group becomes aware of information which they

believe may need to be disclosed on the basis of the principles described in this document, they should immediately contact and give full details to the Chairperson, Managing Director or Chief Executive Officer and Company Secretary.

(B) Chairperson, Managing Director or Chief Executive Officer and Company Secretary will take the following steps in relation to information forwarded to them:

- Assess whether disclosure is required;
- Consult the Chairperson and other advisers as necessary;
- Prepare a market release for provision to ASIC;
- Inform the Managing Director or Chief Executive Officer;
- Forward the release to the ASIC.

(C) Prior to each Board Meeting, the Chairperson, Managing Director or Chief Executive Officer and Company Secretary should contact the executive members of the Reporting Group to confirm that there is no material requiring disclosure.

(D) For each set of Board Papers, there should be an agenda item entitled 'Continuous Disclosure". In this item, the Chairperson, Managing Director or Chief Executive Officer and Company Secretary should either:

- Confirm that there was no material brought to his attention requiring disclosure for the preceding month; or
- Outline material which has been disclosed.

(7) **Company Spokespersons**

In order to maintain control over disclosures, the following persons only will be authorised to speak on the Company's behalf to analysts, brokers and institutional investors, and to respond generally to shareholder queries:

(A) Chairperson

(B) Managing Director or Chief Executive Officer

(C) Chief Financial Officer and Company Secretary

(D) Where appropriate, Chairperson-appointed non-executive directors

In order to safeguard against inadvertent disclosure of non-public information to brokers, investors, analysts and institutions prior to it being disclosed to the ASIC, contact must be made with the Chairperson, Managing Director (or Chief Executive Officer) and Company Secretary prior to contacting these persons in order that he or she may provide a briefing of what has been disclosed by the Company to ASIC.

(8) **Authorising Disclosures in Advance**

Again, in order to avoid an inadvertent breach of the continuous disclosure obligations, materials to be presented and issues to be discussed at external presentation must be discussed with the Chairperson, Managing Director (or Chief Executive Officer) and Company Secretary prior to presentation in order

that he or she may confirm no non-public material information is being disclosed.

(9) **Maintenance of Released Material**

The Company Secretary will maintain a register of information disclosed to ASIC and also a register of information disclosed on the Company web site.

(10) **The Company Web-site**

It is intended to implement the inclusion of material information released to ASIC on the Company web site. In addition, it is intended to add on the Company's web site:

(A) Other materials presented to analysts and institutions; and

(B) A summary of briefings made to analysts and institutions.

(11) **Handling Rumours, Leaks and Inadvertent Disclosures**

Although the Company is an unlisted disclosing entity, and not subject to the Listing Rules, any unauthorised leak of information could expose the Company to allegations of insider trading.

If external contact is made seeking clarification of a rumour in the market place, the enquiry should be referred to the Chairperson, Managing Director or Chief Executive Officer and Company Secretary. The recommended response to such a query is that 'the Company does not respond to market rumours. Consideration will then be given by the Chairperson, Managing Director or Chief Executive Officer and Company Secretary as to whether a public announcement is required.

The Reporting Group should notify the Chairperson, Managing Director or Chief Executive Officer and Company Secretary of any unauthorised disclosure of information (even if regarded as non-public sensitive). Consideration will then be given to the need to make an ASIC disclosure.

(12) **Reviewing Discussions**

In order to ensure no price sensitive material has been inadvertently disclosed, the Chairperson, Managing Director or Chief Executive Officer and Company Secretary should be kept appraised of the contents of any substantive contact with analysts, brokers and institutional investors.

(13) **Draft Financial Statement and Reports**

I. **Typically, analysts will seek to obtain the Chief Financial Officer's review of draft analyst reports. It is permissible to comment on errors in factual information and underlying assumptions, but commenting on price sensitive information should be avoided.**