

10 November 2006

NZX Regulation Decision
Wellington Drive Technologies Limited
Application for waiver from NZSX Listing Rule 7.3.2

Background

1. At the Annual Meeting of Wellington Drive Technologies Limited (“WDT”) to be held on 14 November 2006, shareholders will be asked to approve, the issue of shares and warrants to Source Vortex, LLC (“Source Vortex”) pursuant to a subscription agreement between WDT and Source Vortex.
2. As part of the issue of shares and warrants shareholders will be asked to approve in particular the issue to Source Vortex of 35,000,000 warrants to purchase ordinary shares in WDT at an issue price of \$0.60 per share (“the Warrants”) provided the weighted average of WDT’s share price reaches, and remains at or above, \$1.20 for a continuous 20 day trading period during the two years after issue of the Warrants. If the Warrants become so exercisable, they may only be exercised during the succeeding period of 12 months.
3. Accordingly the Warrants may be exercisable at any time during the 36 months following the Annual Meeting and as such the issue of warrants would not comply with NZSX Listing Rule (“Rule”) 7.3.2.
4. WDT advise that the principal terms of the Warrants are as follows:
 - (a) Each Warrant entitles Source Vortex, or any permitted transferee of a Warrant, to acquire one ordinary share in Wellington at an issue price of \$0.60 per share provided the weighted average of Wellington’s share price reaches, and remains at or above, \$1.20 for a continuous 20 day trading period during the two years after issue of the Warrants.
 - (b) If the Warrants become exercisable in accordance with the preceding paragraph, they may only be exercised during the succeeding period of 12 months. They may be exercised in minimum amounts of 1,000,000 Warrants. Any Warrants not exercised during the exercise period will lapse.
 - (c) The shares issued on exercise of the Warrants will rank equally in all respects with the ordinary shares of Wellington on issue at the exercise date (except for any dividend or other entitlement where the entitlement date occurs prior to the exercise date).
 - (d) The Warrants do not confer on the holder the right to participate in rights issues or bonus issues. However, in the case of rights issues the exercise

price will be reduced according to the formula specified in the NZSX Listing Rules and in the case of bonus issues the number of shares to be issued on exercise of the Warrants will be increased in accordance with a specified formula to take account of the bonus issue.

- (e) On any consolidation, subdivision, buyback of shares or other reconstruction of capital, the exercise price will be adjusted to take account of the reconstruction.
- (f) The Warrants are not transferable other than a by transfer to any company or fund owned or managed, directly or indirectly by Michael Jude Lopitz or Aubrey Hornsby (or any entity under their control), or a distribution in kind to the investors in such company or fund. Source Vortex has advised that it proposes to transfer 5,000,000 Warrants to Source Vortex II, LLC, a company wholly owned by Michael Jude Lopitz and Aubrey Hornsby, in the twelve months following the date of the Annual Meeting.
- (g) No amount is payable for the Warrants upon their issue.

Application

- 5. WDT has approached NZX Regulation (“NZXR”) seeking a waiver of Rule 7.3.2 in order to allow the issue of the Warrants to proceed on the terms and conditions outlined above (and also outlined in the Notice of Meeting to Shareholders ahead of the Annual Meeting). Specifically, the waiver is sought so that the Warrants may be issued outside the time limits imposed by Rule 7.3.2.
- 6. In support of its application, WDT makes the following submissions:
 - (a) The Warrants are only exercisable on the WDT share price reaching a sustained level of \$1.20 (“the Strike Price”). The WDT share price at the time of the waiver application was \$0.53.
 - (b) The Strike Price creates an incentive for Source Vortex to assist WDT in its management, and, it is submitted, in the development of WDT’s overseas markets (in particular in accessing the North American market).
 - (c) A waiver would not undermine the purpose and ‘spirit’ of Rule 7.3.2(b). The purpose of Rule 7.3.2 is to prevent an issuer from having shareholders approve an issue of equity securities and then delay the issue until a favourable point in time. WDT is seeking the approval of its shareholders to the issue of the Warrants and the issue of ordinary shares on the exercise of the Warrants. The timing of the exercise of the Warrants is detailed in the Notice of Meeting to shareholders.
- 7. WDT has also submitted that the shareholder approval (if forthcoming) in the Annual Meeting to be held on 14 November 2006 should be sufficient and WDT should not have to seek further shareholder approval for the exercise of the Warrants.

Rules

8. Rules 7.3.1(a) and Rule 7.3.2 provide:

7.3.1 Prohibition on Issue: No Issuer shall issue any Equity Securities (including issue on Conversion of any other Security) unless:

- (a) the precise terms and conditions of the specific proposal to issue those Equity Securities have been approved (subject to Rule 7.3.3) by separate resolutions (passed by a simple majority of Votes) of holders of each Class of Quoted Equity Securities of the Issuer whose rights or entitlements could be affected by that issue, and that issue is contemplated within the time specified in Rule 7.3.2; or

...

7.3.2 Time Limit: An issue authorised by resolution passed pursuant to Rule 7.3.1(a) shall be completed:

- (a) if that issue is made solely to Employees (as defined in Rule 7.3.6) within 36 months after the passing of those resolutions; or
- (b) in all other circumstances, within twelve months after the passing of those resolutions.

Decision

9. On the basis that the information provided to NZXR is full and accurate in all material respects, NZXR grants WDT a waiver from the requirement in Rule 7.3.2 that an issue be completed (in this case that the Warrants are exercised) within twelve months of the resolution outlined above being passed at the Annual Meeting on 14 November 2006 on the following conditions:

- (a) That the precise terms and conditions of the issue of the Warrants as stated in the Notice of Meeting are approved by shareholders and that the Warrants are issued pursuant to those terms;
- (b) This waiver and the terms of the Warrants are disclosed in each annual report of WDT until the Warrants are exercised or otherwise expire;
- (c) There are no material changes to the terms and conditions of issue of the Warrants; and
- (d) WDT announces that it seeks the waiver in advance of the meeting and reference is made to the waiver at the annual meeting.

Reasons

10. In coming to the decision to grant WDT this waiver in respect of Rule 7.3.2, NZXR has considered that:

- (a) The granting of this waiver is consistent with the precedent in the waiver decisions relating to Fisher & Paykel Appliances Holdings Limited on 16 August 2004 and Kiwi Income Property Trust on 11 August 2005;
- (b) Shareholders are being asked to vote on the allocation of Warrants by special resolution and have been provided with details as to the quantum,

price and conditions for the Warrants to be exercised. Of most relevance is the fact that the timing of the exercise of the Warrants has been explained to Shareholders;

- (c) The exercise of the Warrants is conditional, and those conditions are tied to the positive performance of the WDT share price. WDT submits that the Strike Price condition of the Warrants creates an incentive for the recipients of the Warrants (Source Vortex or associated persons or entities of Source Vortex) to assist WDT in its development of markets. NZXR accepts this submission;
- (d) The report prepared by Grant Samuel as a Takeovers Code requirement states that the transaction is fair to shareholders; and
- (e) The condition imposed that disclosure of this waiver and the Warrants is made in each annual report until exercise or expiry of the Warrants (as set out in paragraph 9 above) is designed to keep shareholders informed.

ENDS.