

PROSPECTUS AND INVESTMENT STATEMENT

# Pohutukawa

For the offer of 40 Million Shares in  
Pohutukawa at \$1.00 per Share

LEAD MANAGER



# Important Information

(The information in this section is required under the Securities Act 1978.)

Investment decisions are very important. They often have long-term consequences. Read all documents carefully. Ask questions. Seek advice before committing yourself.

## CHOOSING AN INVESTMENT

When deciding whether to invest, consider carefully the answers to the following questions that can be found on the pages noted below:

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In addition to the information under those headings, important information can be found in the other sections of this prospectus and investment statement ('Offer Document').

## CHOOSING AN INVESTMENT ADVISER

You have the right to request from any investment adviser a written disclosure statement stating his or her experience and qualifications to give advice. That document will tell you:

- Whether the adviser gives advice only about particular types of investments; and
- Whether the advice is limited to the investments offered by one or more particular financial organisations; and
- Whether the adviser will receive a commission or other benefit from advising you.

You are strongly encouraged to request that statement. An investment adviser commits an offence if he or she does not provide you with a written disclosure statement within 5 working days of your request. You must make the request at the time the advice is given or within 1 month of receiving the advice.

In addition:

- If an investment adviser has any conviction for dishonesty or has been adjudged bankrupt, he or she must tell you this in writing; and
- If an investment adviser receives any money or assets on your behalf, he or she must tell you in writing the methods employed for this purpose.

Tell the adviser what the purpose of your investment is. This is important because different investments are suitable for different purposes.



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## REGISTERED PROSPECTUS AND INVESTMENT STATEMENT

A signed copy of this Offer Document, together with copies of the documents required by Section 41 of the Securities Act 1978, being the material contracts (as specified at paragraph 17 of the Statutory Information section of this Offer Document), were delivered for registration at the Companies Office at Auckland on 2 September 2004. This Offer Document is dated 2 September 2004.

# 01. Investment opportunity

To enable retail investors to participate in the New Zealand private equity market ABN AMRO Craigs Limited ('ABN AMRO Craigs') has established Pohutukawa, a Fund for the retail investor.

## WHY PRIVATE EQUITY?

- **Internationally, research indicates long term returns from diversified private equity investments have been superior to returns from investments in comparable public equity index funds<sup>1</sup>.**

Higher returns are a reflection of an ability to perform detailed due diligence, influence management and provide the resources for growth.

- **Investing in private equity greatly increases the choice of investment possibilities.**

For every listed company in New Zealand there are approximately 120 unlisted businesses with 10 or more employees<sup>2</sup>. Unlisted businesses are also more diverse in terms of size, stage of development and the sectors they operate in.

- **Research indicates that the value of an investment portfolio that includes both listed and unlisted investments is generally less volatile than a portfolio of listed investments<sup>3</sup>.**
- Increased portfolio diversification and a low correlation between private equity and other asset class returns reduces overall portfolio risk.

## WHY INVEST VIA A FUND?

- **By pooling capital and engaging a suitably experienced manager, a Fund is able to achieve the financial strength and investment expertise needed to successfully participate in private equity investment.**

Individual investors typically do not have the time or the ability to identify or access investment opportunities in unlisted companies, or the resources to evaluate and monitor such investments. When investing with a Fund, these roles are performed by a manager on behalf of investors in the Fund.

- **A Fund has the resources to build a diversified portfolio of investee businesses.**

Investment through a Fund enables investment into a much wider range and number of investments, thereby reducing overall risk.

## WHY POHUTUKAWA?

- **Pohutukawa has been structured to meet the unique requirements of retail investors resident in New Zealand.**

Pohutukawa is being brought to you by one of New Zealand's leading investment advisory firms ABN AMRO Craigs. The minimum investment in this Offer is \$10,000 but only \$4,000 of this (plus a 2% application fee per Share) is payable at the time of subscription. The balance of the subscription money is payable within five years in two calls (depending on the amount and frequency of investment by Pohutukawa) with each call requiring at least 3 months notice.

- **Pohutukawa draws on the expertise of one of New Zealand's most successful private equity managers, Direct Capital Private Equity Limited ('Direct Capital').**

Direct Capital has been involved in raising and managing private equity funds in New Zealand for the last 10 years. In that time Direct Capital has, through four Funds, invested more than \$150 million in 34 investments. More importantly, it also has an established track record of attractive returns. To date Funds managed by Direct Capital and/or its related companies have effectively achieved an annualised return ('IRR') of 21%<sup>4</sup> after management and earnout fees, on a portfolio of 15 Realised Investments.

- **Pohutukawa seeks to focus on the lower risk segment of the private equity market by investing in a diversified range of established businesses.**

By financing expansion and buy out opportunities in established businesses, Pohutukawa intends to build on the existing investment style and track record of Direct Capital.

1. 'Why and How to Invest in Private Equity', European Private Equity & Venture Capital Association Paper, March 2004.

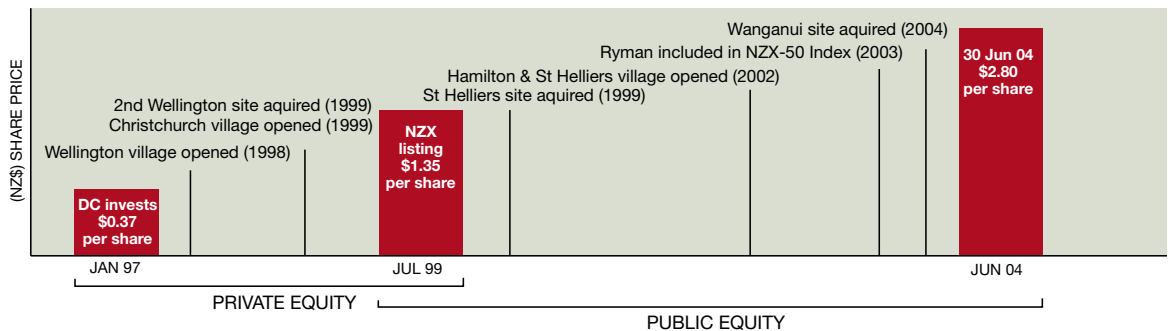
2. Statistics New Zealand 2003.

3. 'Why and How to Invest in Private Equity', European Private Equity & Venture Capital Association Paper, March 2004.

4. Calculated by taking the cashflows since inception of Direct Capital in 1994 from all Realised Investments of Funds managed by it and/or its related companies to date (last realisation in 2003) and then deducting management fees equivalent to those which apply to Pohutukawa. Historical data is no guarantee of future performance, which may be less than or exceed historical financial performance.

**RYMAN HEALTHCARE LIMITED** HEALTHCARE FACILITIES FOR THE ELDERLY

**RYMAN SHARE PRICE - PRIVATE AND PUBLIC EQUITY**



**PROFIT, EARNINGS & DIVIDENDS SINCE 1998**  
 March 1998 (FY) - profit \$2.9m, dividend \$1.5m, EPS 3.6c  
 March 2004 (FY) - profit \$18.4m, dividend \$9.0m, EPS 18.4c



*Direct Capital Partners Limited invested NZ\$7.5 million in Ryman Healthcare Limited in January 1997.*

*Ryman was founded in 1984 by John Ryder and Kevin Hickman with a clear objective - to become the leading provider of healthcare facilities for the elderly in New Zealand.*

*Ryman's activities were originally confined to the South Island of New Zealand until an injection of NZ\$15 million in January 1997 by Direct Capital Partners and Ngai Tahu Equities Ltd. This capital injection allowed Ryman to expand into the North Island and commence development of two new retirement village complexes. Ryman subsequently raised NZ\$25 million by way of an IPO in June 1999 on the NZX to further expand its operations in the North Island. Direct Capital Partners assisted Ryman as Financial Advisor to Ryman in the float process itself.*

*'We grew to a turnover of NZ\$9.2 million per annum over our first 12 years. With the help of Direct Capital Partners we grew by a further NZ\$21 million per annum in 3 years' - Kevin Hickman, Managing Director.*

*STATUS: At the time of the IPO Direct Capital Partners had achieved a gross internal rate of return of 67.4% and a cash multiple of 3.6x.*



## 02. Letter from the Chairman

2 September 2004

Dear Investor

For many years sophisticated institutional investors have invested equity into unlisted companies. Not only has this helped these investors generate attractive returns but it has helped provide capital to many companies that have gone on to become leading global businesses.

Pohutukawa has been established to enable New Zealand retail investors to invest into private equity and thereby improve both the risk and reward characteristics of their long term investment portfolios.

New Zealand is a country of small businesses, most of which never get listed on our sharemarket. In fact private businesses make up a bigger proportion of our economy than they do in almost all other OECD nations. There are some 21,000<sup>5</sup> unlisted businesses in New Zealand with 10 or more employees compared with 170 companies listed on the NZSX. Moreover these unlisted companies cover a much wider range of size, stage of development and sectors than those collectively covered by listed companies. This allows greater investment choice and portfolio diversity and these are the sources of both higher investment returns and reduced investment risk. The only way to share in the success of these businesses is through private equity.

It is not widely reported but private equity investors already back many successful New Zealand companies. Well known companies such as EziBuy Limited, Ryman Healthcare Limited and Nobilo Wine Group Limited have all benefited from private equity.

Investing in private companies presents some challenges. Successful investment requires both expertise and experience. I am proud to be associated with two of New Zealand's leading financial services firms in bringing Pohutukawa to the market.

To manage Pohutukawa, ABN AMRO Craigs Limited ('ABN AMRO Craigs') has teamed with Direct Capital to form a new private equity management company, Pohutukawa Management

Limited. Direct Capital is arguably New Zealand's leading private equity investment manager having overseen investment of over NZ\$150 million in private equity transactions. ABN AMRO Craigs is a leading New Zealand investment and corporate advisory firm with 13 offices nationwide. Using the proven expertise of Direct Capital, Pohutukawa aims to adopt a conservative risk investment strategy by investing principally into a diversified portfolio of established unlisted medium sized New Zealand and Australian businesses.

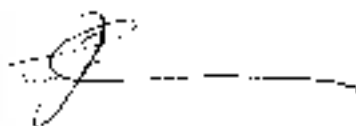
Pohutukawa is raising \$40 million in this Offer of 40 million Shares at an issue price of \$1.00 per Share. There is a provision for oversubscriptions of an additional 40 million Shares. The minimum subscription is 10,000 Shares. Investors in the Offer will be required to make an initial payment of \$0.42c per Share, \$0.02 of which is an application fee to cover the cost of brokerage. Any remaining subscription money will be called within five years of the closing date of the Offer. Capital will be returned to investors as cashflows from individual investments are received by Pohutukawa. Listing of the Shares is not currently being sought. The Board can by unanimous consent of the Board (and after consultation with Pohutukawa Management) require Pohutukawa to apply to list with New Zealand Exchange Limited ('NZX'). Moreover, where shares in a portfolio business are being listed investors, when it is in their interest, may be given the option of receiving shares in that portfolio business.

We feel that the combination of exposure to leading New Zealand private equity opportunities combined with the management expertise of Direct Capital and ABN AMRO Craigs makes Pohutukawa a very attractive investment choice for New Zealand investors.

I commend Pohutukawa to you and look forward to welcoming you as a shareholder.

Yours sincerely

POHUTUKAWA PRIVATE EQUITY LIMITED



Jon Cimino  
Chairman



## 03. Key terms of the Offer

<b>Legal Entities:</b>	Pohutukawa Private Equity Limited plus 25 special purpose vehicle Investment Companies.
<b>Pohutukawa Objective:</b>	Through investment in selected unlisted businesses in New Zealand and Australia to achieve investment returns superior to those achieved by comparable listed company market indices.
<b>Manager:</b>	Pohutukawa Management Limited (the 'Manager'), a joint venture established between Direct Capital and ABN AMRO Craigs.
<b>Offer:</b>	40 million Shares at an issue price of \$1.00 per Share. The issue price of Shares allotted is payable in three installments. The Offer also contains an oversubscriptions provision for an additional 40 million Shares.
<b>Shares:</b>	Each 'Share' consists of one ordinary voting share and 100 non-voting redeemable preference shares in Pohutukawa Private Equity Limited together with one non-voting preference share in each of the Investment Companies.
<b>Minimum Subscription:</b>	The Offer will proceed if applications for more than 40 million Shares are received.
<b>Initial Subscription:</b>	\$0.40 per Share subscribed and allotted for must be paid up in full upon application (plus the Application Fee).
<b>Further Calls:</b>	Two further subscriptions of \$0.30 each for a total \$0.60 per Share owing on the Shares in respect of Shares subscribed and allotted are to be made before the fifth anniversary of the Closing Date for the Offer. Further calls will be subject to 3 months notice and, except with the prior consent of the Manager, can only be made when previously paid up capital has been fully invested.
<b>Minimum Investment:</b>	10,000 Shares (paid up on initial application to \$4,000) and thereafter in 1,000 Share increments.
<b>Application Fee:</b>	An application fee of 2% of the total issue price of the Shares is payable by the investors to the Lead Manager upon application. The application fee may be used to pay brokerage to approved Primary Market Participants and brokers and advisors approved by the Lead Manager.
<b>Application for Shares:</b>	<p>Application to subscribe for Shares pursuant to the Offer must be made on the Application Form in Section 17 of this Offer Document. All applications must be made in accordance with the application instructions set out on the reverse side of the Application Form.</p> <p>Applications must be for a minimum parcel of 10,000 Shares and thereafter in multiples of 1,000 Shares. Applications must be accompanied by cheque payment for \$420 per 1,000 Shares applied for, to 'The Pohutukawa Share Offer'. Cheques should be crossed 'Not Transferable'.</p> <p>Duly completed application forms together with the appropriate payment must be lodged with the Primary Market Participant through which a firm allocation was obtained or the Lead Manager, in sufficient time to be lodged with the Share Registrar prior to Closing Date.</p>
<b>Offer Opens:</b>	13 September 2004.
<b>Offer Closes:</b>	5.00pm 8 October 2004 ('Closing Date'). Pohutukawa, in consultation with the Lead Manager, reserves the right to extend the Closing Date.
<b>Allocation of Shares:</b>	All Shares in the Offer have been reserved for firm allocation to clients of the Lead Manager and other Primary Market Participants. Those Shares not taken up by firm allocations, plus any oversubscriptions (up to a maximum of \$40 million), will form a public pool. If the Offer is oversubscribed, applications for Shares in the public pool may be scaled. Scaling will be determined by the Board with recommendations from the Lead Manager and may not be pro rata. Pohutukawa reserves the right to accept over subscriptions.

<b>Allotment of Shares:</b>	12 October 2004 (subject to any extension of the Closing Date).  The Directors of Pohutukawa Private Equity reserve the right to reject any application, or accept any application in part only, without assigning any reason for doing so. Any interest generated on application monies held by Pohutukawa shall be for the account of Pohutukawa, except as required by the Securities Act. Any surplus application monies will be refunded to applicants within five business days after allotment of Shares to successful applicants and will not carry interest.
<b>Management Fee:</b>	2.25% (plus GST) per annum of Committed Capital until all capital has been called and is due and owing or five years, whichever is earlier. Thereafter, the Management Fee will be calculated on the basis of the Invested Capital. The Manager may negotiate fee rebate arrangements directly with beneficial applicants who have been allocated greater than 500,000 Shares.
<b>The Manager's Earnout:</b>	Once shareholders have received distributions in respect of Shares equal to the paid up price of the Shares plus a pre-tax compound return of 8% per annum on Called Capital, the Manager will be entitled to an earnout payment of 20% of total net returns. See Section 11 - Summary of the Management Agreement for further details.
<b>Capital Commitment:</b>	10% of the proceeds of the Offer will be committed to investments which will be made through LSV, a specialist Fund focused on food, agri-businesses and agri-biotechnology, which is to be established and co-managed by Direct Capital. A further 10% of the proceeds of the Offer may be invested in LSV, subject to compliance with Pohutukawa's investment criteria (see Section 9).
<b>Listing:</b>	Listing of the Shares is not currently being sought. Whilst there will be no formal secondary market for the Shares at the time of allotment, ABN AMRO Craigs will endeavour to match buyers and sellers of Shares on an informal basis. To facilitate liquidity the Board can, by unanimous resolution and after consultation with the Manager, require Pohutukawa to apply to list with NZX at any time.
<b>Liquidity Review of Pohutukawa:</b>	The Board will review the liquidity position of Pohutukawa no later than the 10th anniversary of the Closing Date. Capital will be returned to investors as cashflows from individual investments are received by Pohutukawa from dividends, interest, repayments of loans or redeemable capital and, if and when, investments made by Pohutukawa are sold. Further, where appropriate and when it is in the interests of investors, shares in investments which are to list with the NZX (or other recognised exchanges) will be distributed directly to investors.
<b>Reporting:</b>	Progress of Pohutukawa, and updates on the performance of companies Pohutukawa has invested in, will be provided on a semi-annual basis. Other issues such as portfolio valuation, distributions and financial statements of Pohutukawa will be conveyed through an annual report, available on the website <a href="http://www.pohutukawafund.co.nz">www.pohutukawafund.co.nz</a> .
<b>Forfeiture:</b>	If investors fail to pay subscription moneys on Shares when called, all partly paid Shares held by them will be liable to forfeiture and the investor will be liable for any shortfall after the sale or disposal of such Shares. Interest accrues at 4% per annum above the 90 day bank bill rate on unpaid calls. See Section 12 - Financial Information for further details.
<b>No Guarantee:</b>	No person referred to in this Offer Document guarantees the Offer, the Shares or the performance of Pohutukawa or the Manager following the close of the Offer.
<b>Disclosure of Promoter:</b>	ABN AMRO Craigs and Direct Capital are promoters of the Offer, and each hold a 50% interest in the Manager, which is also a promoter.



## 04. Overview of private equity

Private equity is an investment class that encompasses all types of equity investment into unlisted businesses (or public companies where the investment has the character of a private equity transaction). Unlisted businesses generally require access to investment capital to fund growth or to provide liquidity for existing shareholders. More specifically, unlisted companies may require private equity to fund the development of a start-up or early stage business (venture capital), to expand or grow an established business either organically or by acquisition, to facilitate a management buy out or buy in, or to allow existing shareholders to make a partial or full sell down of their holdings.

Compared to investments in listed companies, private equity investments are relatively illiquid, but offer potentially higher returns. Moreover, they usually provide the opportunity for an experienced investor to become involved in the direction of the investee company and to negotiate the cost of their investment based on detailed company information.

The term 'private equity' can be broadly broken into the following categories: Venture Capital; Expansion Capital; Buy Outs/Buy Ins; and Special Situations.

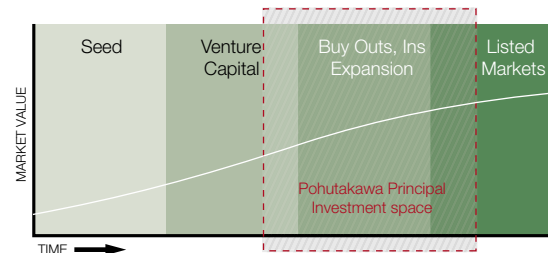
**Venture Capital** is often used to describe the private equity sector as a whole, but more accurately describes investments made at an early stage in a company's life.

**Development/Expansion Capital** is financing provided for the growth or expansion of a company that is breaking even or trading profitably.

**Buy Outs, Buy Ins** are used to refer to different structures in private equity that are applied to established businesses with positive cashflows and profit streams. Private equity managers provide funds to enable current operating management to acquire an existing business (a management buy out) or to enable a manager or group of managers from outside a company to buy into a company (a management buy in).

**Special Situations - Private Placements, Pre IPO and PIPE's.** A private placement is where private equity managers provide liquidity to existing shareholders through the purchase of existing shares. Pre IPO ('Initial Public Offer') investment is where private equity managers support the listing of a business through taking a stake in the business prior to its IPO and then assisting in the IPO process. PIPE's ('Private Investment in a Public Entity'), as its name suggests, is a private equity investment into a listed company, which typically has the characteristics of a private company. In particular, its shares are thinly traded on the stock market and the company does not have ready access to the capital markets for capital raising.

### LIFE-CYCLE OF A COMPANY



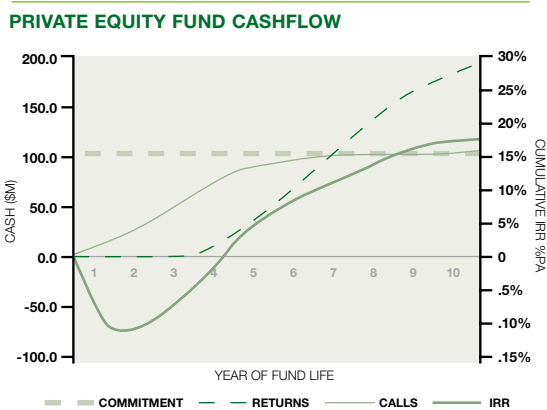
SOURCE : Direct Capital

### HOW INTERNATIONAL PRIVATE EQUITY FUNDS OPERATE

In the early years of most private equity funds, the manager invests in portfolio companies. During this period investors in the fund are called upon to provide portions of their committed capital as and when investments are made. These are known as draw downs. Typically these draw downs and investments will be made over the first five year period of the fund.

As portfolio companies mature and distribute earnings or redeem capital, the fund will begin to make distributions. This will generally take a few years from the date of first investment and, as with draw downs, the timing and the amounts returned to investors will be volatile. Recent surveys of UK private equity fund managers highlight that funds usually start to generate positive net cashflows from portfolio company earnings or exits from around year five. These net cashflows are shown graphically on page 12 and are normally referred to as the J-Curve.

## 04. Overview of private equity



SOURCE : Australian Venture Capital Association Limited

Funds progressively draw down committed capital over time. As distributions normally commence before the whole commitment has been drawn, it is unusual for an investor ever to have the full amount of its committed capital actually managed by the manager. A recent study indicated that globally, private equity funds on average draw down around 67% (net of repayments) of their committed capital.<sup>6</sup> However, investors should be aware that in the case of Pohutukawa the Board will have the right to reinvest the cost of any investments realised during the three years immediately following the Closing Date.

### HISTORY OF PRIVATE EQUITY INVESTMENT

Private equity has existed in an informal sense for many centuries, however, it was only post the Second World War that a formal industry started to take root, both in the US and the UK. Even then it maintained a low profile until the early 1980's when changes in legislation resulted in the creation of the buyout market and significant technological developments were increasingly funded by venture capitalists.

The industry in North America and Europe has grown significantly over the past decade and private equity managers worldwide now have approximately \$US700<sup>7</sup> billion under management, up from approximately US\$250<sup>8</sup> billion in 1997. Over the past three years private equity managers globally have invested on average US\$120<sup>9</sup> billion per annum.

After an initial spurt in the mid 1980's, the industry started in Australia in earnest in the early 1990's. The Australian market now boasts over 100 private equity managers with more than 160 Funds<sup>10</sup>. Collectively these managers have today A\$6.3<sup>11</sup> billion under management.

Private equity now forms an established and growing part of most institutional investor investment portfolios.

### NEW ZEALAND PRIVATE EQUITY

The New Zealand private equity industry was kick started in 1993 via a New Zealand government initiative, the Greenstone Fund. Since then the industry has grown to approximately 15 specialist managers with total committed capital of NZ\$1.1 billion. During 2003 these New Zealand managers invested NZ\$88 million in privately held companies<sup>12</sup>.

The New Zealand government has recently demonstrated continued support to the industry by committing a further NZ\$100 million via the NZ Venture Investment Fund (NZVIF).

6. The investment behaviour of private equity fund managers - Stern School of Business, NYU, 2003.  
 7. Thomson Venture Economics - J Reyes PWC CFO Conference, 'State of the Market', 14 July 2004.  
 8. Thomson Venture Economics - J Reyes PWC CFO Conference, 'State of the Market', 14 July 2004.  
 9. 3i PricewaterhouseCoopers - Global Private Equity Report 2003.  
 10. Macquarie Australia - 'Capital Ideas', March 2003.  
 11. Macquarie Australia - 'Capital Ideas', March 2003.  
 12. New Zealand Venture Capital Monitor, 2003.

**ROBINHOOD LIMITED** WHITEWARE MANUFACTURER



 *Direct Capital's second Fund invested NZ\$9.6 million in Robinhood Limited ('Robinhood') in September 1999.*

*In 1999 Robinhood sought a partner to assist it with its development of new products. It chose Direct Capital, who enabled the company to capitalise on a rapidly growing construction and building market, strong existing market shares in New Zealand and Australia and new product developments. The success of these new initiatives enabled Robinhood to reward shareholders with strong dividend returns.*

*'Direct Capital's support enabled us to invest in new product developments and manufacturing plant plus distribute to new international markets, primarily the USA. We couldn't have done this without the additional capital and resources Direct Capital brought'. - Steve Bootten, Managing Director of Robinhood during Direct Capital's investment period.*

*STATUS: As a result of an offer by a trade buyer to all shareholders, Robinhood was successfully sold to ALESCO Corporation Limited in March 2003 at a gross internal rate of return of 20% and a cash multiple of 1.8x..*

## 05. Why invest in private equity?

Broadly, the rationale for investing in private equity can be broken into three key themes. Firstly, returns internationally from private equity, over the medium to long term, have outperformed listed equities. Secondly, private equity can invest in a much wider range of investment opportunities outside listed equities, bringing important diversification benefits to portfolio investors. Finally, the low correlation between returns from private equity with returns from other assets can bring a lower level of risk and higher returns for diversified investors.

### 1. SUPERIOR RETURNS

**Internationally, returns from diversified private equity investments have been superior to returns from investments in comparable listed equity indices.**

*A track record of out-performance*

Private equity in the US and Europe is an established asset class with a well-developed track record. Over the medium and longer term, returns from private equity assets have outperformed those from listed equities, as shown below.

#### HISTORIC RETURNS GENERATED BY GLOBAL PRIVATE EQUITY 10 years to 31 December 2003

COUNTRY & INDEX	ANNUALISED RETURN
US - S&P 500	9.1%
US Private Equity	12.7%
Europe - FTSE Eurotop 300	5.4%
European Private Equity	11.7%

SOURCE: Bloomberg, European Private Equity & Venture Capital Association, National Venture Capital Association (US)

In Australasia, where the sector is not yet as developed as in the US and Europe, returns from Australian private equity have also been higher than listed equities over the same period. A survey of the sector between 1988 and December 2001 indicated that Australian private equity Funds had generated a pooled average return of 9.2% per annum. Over a comparable period, the ASX All Ordinaries index generated an annual return of 7.3%<sup>13</sup>.

The New Zealand private equity sector is still too young to have material returns data. However, Direct Capital have been actively investing in private equity in New Zealand since 1994. Funds managed by Direct Capital and its related companies have generated an IRR of 21% after management and earnout fees on the portfolio of 15 Realised Investments<sup>14</sup>. This compares to an annualised return for the NZSE 40 Gross Index of 8.6%. More details of Direct Capital's track record are included in Section 8.

#### ANNUALISED RETURNS NEW ZEALAND LISTED EQUITY RETURNS 30 December 1994 - 31 December 2003 All dividends reinvested

INDEX	ANNUALISED RETURN
NZSE 40 Gross	8.6%
NZSE All Ords index	9.4%
Direct Capital Realised Returns	21% <sup>15</sup>

SOURCE: Bloomberg, Direct Capital

13. AVCAL. Year book 2002. Bloomberg.

14. Calculated by taking the cash flows since inception of Direct Capital in 1994 from all Realised Investments of Funds managed by it and/or its related companies to date (last realisation in 2003) and then deducting management fees equivalent to those which apply to Pohutukawa. Historical performance is however no guarantee of future performance, which may be less than or exceed historical financial performance.

15. Calculated by taking the cash flows since inception of Direct Capital in 1994 from all Realised Investments of Funds managed by it and/or its related companies to date (last realisation in 2003) and then deducting management fees equivalent to those which apply to Pohutukawa. Historical performance is however no guarantee of future performance, which may be less than or exceed historical financial performance.

### What drives this out-performance?

As with all managed investments, private equity fund returns are affected by the investment skills and abilities of the fund manager. One of the core skills of successful private equity managers is the ability to select unlisted companies with strong growth potential. By investing in companies at a time of rapid change in their life cycle, private equity investments are often able to generate returns above listed equities.

When making investments, private equity investors are provided with a far greater depth of information than public equity investors. Access to this information, which often includes detailed business plans and financial data, enables the private equity manager to thoroughly investigate potential investments and thereby reduce risk.

Private equity managers are able to participate actively in the management and strategic direction of companies in which they invest. Private equity managers often take board positions in portfolio companies, allowing them to advise companies on all aspects of their business and to better assess the ongoing risks involved with their investment.

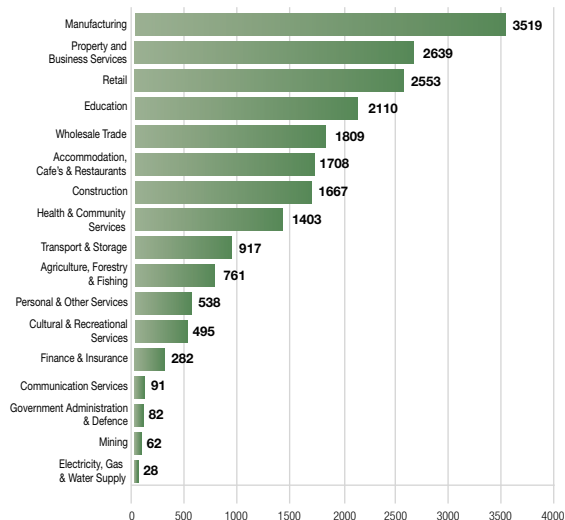
Consequently as an asset class private equity offers the potential for superior long term returns when compared to listed equity indices.

## 2. DIVERSIFICATION

Investing in private equity greatly increases the choice of investment possibilities.

Studies indicate that within a balanced portfolio, the introduction of private equity alongside listed bonds and equities can further improve a portfolio's diversification<sup>16</sup>. Part of this diversification benefit is derived from the fact that compared to listed equity investors, private equity firms have a much greater universe of assets from which to select. The NZSX currently comprises around 170 New Zealand domiciled companies. However, the wider unlisted segment better reflects the overall diversity of New Zealand's economy. In fact, in New Zealand, for every listed company there are approximately 120 unlisted companies that employ 10 or more people<sup>17</sup>.

### COMPANIES EMPLOYING OVER 10 PEOPLE IN NEW ZEALAND, 2003, BY INDUSTRY SECTOR



SOURCE: Statistics New Zealand

16. 'Why and How to Invest in Private Equity', European Private Equity & Venture Capital Association Paper, March 2004.

17. Statistics New Zealand, February 2003.



## 05. Why invest in private equity?

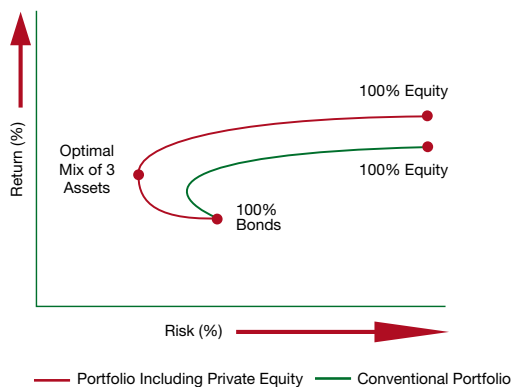
A large number of important sectors of the New Zealand economy are currently under represented on the NZSX. These include the manufacturing, health, services and leisure sectors. Direct Capital, or Funds managed by Direct Capital, has made successful private equity investments in all of these areas.

Moreover, by its nature a fund structure results in a diversified portfolio, containing investments in a number of unassociated and uncorrelated companies. Therefore the risks associated with any one portfolio company are diversified with investors receiving an average of the returns of the portfolio.

### 3. LOW CORRELATION

#### Holding Private Equity as part of a diversified portfolio

Investors should aim to hold a portfolio that maximises returns at an acceptable level of risk. Adding private equity to a diversified portfolio can improve returns for the same level of risk to investors. The trade off between risk and return, and the impact of adding private equity to a diversified portfolio can be represented graphically.



SOURCE : European Venture Capital Association

This benefit is a result of the fact that returns from private equity investments enjoy a low correlation with other asset classes such as listed equities and bonds. In practice, listed equities can be volatile. Movements in equity prices do not always reflect underlying movements in the values of companies, but reflect global, national and market conditions. Intuitively, investors understand that many of these factors that affect listed equity investments do not affect, to the same extent or with the same immediacy, investments in unlisted companies.

As a result, adding private equity to a balanced portfolio can reduce its overall volatility and contribute to an overall improvement in risk profile. This would allow higher targeted returns for the same level of calculated risk, or a reduction to the level of risk in the portfolio whilst preserving the target rate of return.

A recent study of leading US institutional investors indicated that overall, institutions have increased their portfolio allocation to private equity over recent times. Allocations by US institutional investors have risen to 7.5% in 2003, from 5% in 1992. Institutions with longer term investment horizons, such as large university endowment funds allocate a larger proportion of their overall portfolio to private equity assets<sup>18</sup>. Similar research indicates that growth in European institutional allocations to private equity has grown even faster, though from a more immature base.<sup>19</sup>

18. Private Equity Asset Allocation - Tuck School of Business, 2003.

19. Report on Alternative Investing - Goldman Sachs / Russell Investment Group 2003.

## NOBILO WINE PRODUCTION AND DISTRIBUTION



*Direct Capital Partners invested a total of NZ\$4.5 million in Nobile Wine Group Limited ('Nobile') from late 1995. The history of Nobile in New Zealand goes back to the early 1940's when the Nobile family landed in New Zealand. They settled in Huapai, West Auckland, situated in the North Island of New Zealand, and started planting vines in 1943.*

*From 1995 Direct Capital Partners injected a total of NZ\$4.5 million of new equity to support the vision of the founding shareholders. This capital also enabled a joint investment in National Liquor in February 1996 alongside BRL Hardy, Australia's second largest wine company.*

*In May 1998 Nobile acquired Selak Wines and merged with National Liquor to create one of New Zealand's largest integrated wine businesses. In December 1998 Nobile went on to float shares on the New Zealand Stock Exchange and raised \$7.0 million of new capital.*

*'As an established family business in a sector that was seeing rapid growth, we welcomed the involvement and profile of an institutional investor without the requirements associated with being a public company. Direct Capital were not only able to provide us with capital but also strategic and corporate finance advice, plus assist with our grooming for the NZX.'* - Nick Nobile, Co-founder

*STATUS: When Nobile merged with BRL Hardy in June 2000 Direct Capital Partners had achieved a gross internal rate of return of 17% and a cash multiple of 2x.*

## 06. Pohutukawa Board of Directors

The Board of Pohutukawa Private Equity Limited comprises 4 directors, two from ABN AMRO Craigs and two independents, one of whom is Chairman. For so long as it continues to hold not less than 50% of the issued shares in the Manager, ABN AMRO Craigs is entitled to appoint up to 50% of the directors of Pohutukawa Private Equity Limited. The board is responsible for appointing, and then monitoring the performance of, the Manager, reviewing Pohutukawa's investment policy and criteria, and managing conflicts of interest between the Manager and Pohutukawa.

The constitution of Pohutukawa Private Equity Limited permits the independent Directors to invest with Pohutukawa on the same economic terms and conditions as those on which Pohutukawa is itself investing and subject to appropriate disclosures in accordance with the procedures of the Companies Act 1993.

### **JONATHAN ANDREW CIMINO** (Chairman) BCA

Jon's career has been in the sharebroking and investment banking sectors. He was Chairman and Managing Director of UBS Warburg New Zealand until 2001 and is now a director of his own investment bank Cimino Partners Limited.

He is a member of the Board of listed companies Waste Management NZ Limited, and Genesis Research and Development Limited. He has previously been a director of Tranz Rail Holdings Limited and the New Zealand Stock Exchange.

Jon is a graduate of Victoria University of Wellington and has completed the Advanced Management Program at Harvard Business School in Boston.

### **MURRAY WALLACE DAVIES** (Independent Director)

Murray comes from an engineering background and is an experienced investor with a wide range of private business interests with which he is actively involved. He is currently the National President of Export New Zealand, Chairman of Radius Health Group Limited, and a director of Lexicon Group Limited, Goatley Technology Limited, Summit Capital Investments Limited and numerous other private companies. He is also Chairman of PriorityOne, which is responsible for Regional Development in the Tauranga region.

Until recently Murray was principal and founding Managing Director of the Bridge Cool Group of Companies, one of New Zealand's largest growers, post harvest operators and exporters within the Kiwifruit and Avocado industry. He also owned Pinto Fruit Juice Limited for a number of years during the 1990's. Murray has travelled extensively on business and has a strong international, exporting and strategic focus with very good business disciplines. His spread of business interests gives him a very broad business network.

Murray has lived in Tauranga for the last 25 years. However, with many business interests in Auckland he spends a great deal of his time there.



**NEIL JOHN CRAIG**  
**(Non Executive Director)** BA<sub>g</sub>Com

Neil is the founding principal and Executive Chairman of ABN AMRO Craigs, a company he has been instrumental in building from a small regionally based sharebroking business in Whakatane to its current position as a leading New Zealand investment advisory firm. Neil also heads ABN AMRO Craigs Investment Banking team and, in a personal capacity, has been an active private equity investor for many years.

Neil is currently a director of Kiwifruit International Limited and a number of privately held companies, including Opotiki Packing and Coolstorage Limited. He has previously been a Director of Mighty River Power Limited, New Zealand Stock Exchange and Trust Bank Bay of Plenty Limited.

As Head of Investment Banking for ABN AMRO Craigs, Neil has had a broad experience in listings and/or capital raisings for a wide range of small and large sized companies.



**WILLIAM TURNBULL STEVENS**  
**(Non Executive Director)** BBS

William is a director of ABN AMRO Craigs where he also works as a senior investment advisor. He is also currently Deputy Chairman of the discipline committee of NZX, NZX Discipline.

William was a Lieutenant Commander in the Royal New Zealand Navy, and has subsequently been in investment advisory work for the past 18 years. He joined Hendry Hay McIntosh in 1986 and was a director of that firm for 5 years until 1996 when it was acquired by Merrill Lynch. He was also a director of Merrill Lynch (New Zealand) for 5 years until part of that firm was acquired by ABN AMRO Craigs in 2001.



## 07. The Manager POHUTUKAWA MANAGEMENT LIMITED

Pohutukawa has engaged Pohutukawa Management Limited to provide all day to day administration and investment management services.

The Manager is a 50/50 joint venture between Direct Capital and ABN AMRO Craigs and will draw on the expertise of both its shareholders. The Manager has an Investment Committee which is responsible for all investment decisions for Pohutukawa after reviewing detailed evaluations prepared by the investment team. The Investment Committee comprises three representatives from Direct Capital, two representatives from ABN AMRO Craigs, and an independent Director of Pohutukawa Private Equity.

Direct Capital is a specialist private equity manager established in 1994 by four founding directors Ross George, Mark Hutton, Bill Kermodie and Roger Harper. Today Direct Capital remains owned and managed by three of those four founding directors, whilst the team has grown to 14 investment professionals, with those investment professionals having over 70 years of combined private equity experience.

From the outset Direct Capital has sought to provide a consistent strategy of long term growth, making investments based on sound business fundamentals and aimed at providing its investors with above market returns.

Funds managed by Direct Capital and/or its related companies have made 34 private equity investments totalling more than NZ\$150 million - making Direct Capital arguably the most active private equity manager in New Zealand. Fifteen of these are Realised Investments which together produce an annualised portfolio return (IRR basis) after management and earnout fees of 21%<sup>20</sup>. Direct Capital also continues to manage a wide range of investments for the existing funds under its management.

ABN AMRO Craigs is one of New Zealand's leading investment advisory firms with approximately 100 investment advisors and 18 branch or affiliate offices across New Zealand. ABN AMRO Craigs is 50% owned by ABN AMRO, and 50% owned by approximately 80 of the staff of ABN AMRO Craigs. A number of the staff are from Merrill Lynch whose New Zealand retail operation was acquired in early 2001.

ABN AMRO Craigs also operates a team specialising in capital raisings, listings and trade sales for small to medium sized businesses, which consists of 8 investment banking members. The company has been Lead or Co-Lead Manager to a significant proportion of the listed debt and equity transactions in New Zealand over the last four years.

20. Calculated by taking the cash flows since inception of Direct Capital in 1994 from all Realised Investments of Funds managed by it and/or its related companies to date (last realisation in 2003) and then deducting management fees equivalent to those which apply to Pohutukawa. Historical performance is however no guarantee of future performance, which may be less than or exceed historical financial performance.

## 07. The Manager POHUTUKAWA MANAGEMENT LIMITED

### TRANSACTION GENERATION

ABN AMRO Craigs is well placed to source investee opportunities for Pohutukawa, given its focus on and knowledge of the capital markets for small to medium sized businesses. For many of the businesses that approach ABN AMRO Craigs for assistance in raising capital, an investment by Pohutukawa is likely to be a suitable option.

Direct Capital has developed a strong national and international network of associates and contacts. These include industry experts across a wide range of sectors, corporate executives, banks, a wide range of corporate advisory groups, accountants, lawyers, stockbrokers, financial institutions, angel investors, entrepreneurs and other venture capitalists.

Direct Capital is now a recognised co-investment partner with both global and local private equity managers, and has invested alongside global partners such as Advent International and 3i Group plc, as well as regional investors such as AMP, Grant Samuel, Deutsche and Quadrant.

The Manager will also use an established system of direct approach to targeted companies and will implement marketing programmes that position Pohutukawa as the investor of choice in specific industry sectors. The Manager, through these networks and others has access to a strong deal flow on both sides of the Tasman. Direct Capital is a member of the Australian Venture Capital Association Limited (AVCAL), both a member, and a key sponsor, of the NZ Venture Capital Association (NZVCA) and sees the majority of investment opportunities that circulate within Australasia.

### INVESTMENT EVALUATION

Building on their many years of investment experience, the executives of Direct Capital have developed and refined evaluation processes that use internationally accepted investment criteria and due diligence procedures. The investment team will typically complete due diligence directly so that subcontracting of tasks is generally limited to financial, legal and technical reviews.

The Manager expects to play a supportive role within its investee companies. The executives within the Manager who recommend a company for investment and lead the due diligence efforts will typically be responsible for monitoring, supporting, and providing liquidity in the investment.

### CO-INVESTMENT WITHIN THE DIRECT CAPITAL GROUP

As an established private equity manager, Direct Capital is involved in managing or co-managing a number of Funds concurrently. Pohutukawa will have access to co-investment opportunities sourced by Direct Capital through its other managed or co-managed Funds. Similarly, other Funds managed or co-managed by Direct Capital will have access to co-investment opportunities sourced by ABN AMRO Craigs. The ability to co-invest with other Funds managed or co-managed by Direct Capital means that Pohutukawa will have a more diverse portfolio of investee businesses than would otherwise be the case for a Fund of a similar size. Further, the large aggregate value of Funds managed or co-managed by Direct Capital mean that it is likely to have access to larger investment opportunities than would be offered to Pohutukawa on a stand alone basis.

Pohutukawa is the only Fund available to retail investors under Direct Capital management.

**MOORE AUSTRALIA PRINT, DOCUMENT AND E-BUSINESS SOLUTIONS**



**MOORE**

*Direct Capital's second Fund invested \$NZ3.4 million in Moore Australia in December 1998.*

*Moore Australia manufactured, marketed and sold business forms, customer communication systems, data management systems and associated equipment to 11,000 customers in Australia. Moore had 5 principal plants and owned or operated dedicated plants on customers premises under facilities management contracts. It was the largest player in its industry in Australasia with a 25-30% market share.*

*In 1998 Moore Australia parent company Moore Corporation (Canadian listed company) decided for strategic reasons that it wanted to sell Moore Australia. In December 1998 Direct Capital led the management buy out and acquired a 25% stake in Moore Australia alongside management and other co investors including 3i Group plc.*

*'Direct Capital was able to provide a solution to our parent company's need and at the same time give us, the management team, the opportunity to take a significant stake in the business we were managing. A happy outcome for all of us' - Jim MacDonald, ex-CEO.*

*STATUS: As the result of a buy out offer Direct Capital sold its shareholding to a new management group in November 2001 at a gross internal rate of return of 33% and a cash multiple of 2.0x.*



## 07. The Manager POHUTUKAWA MANAGEMENT LIMITED

### INVESTMENT MANAGEMENT TEAM

Drawing on the resources of Direct Capital, the principal members of the investment management team will be:

#### ROSS GEORGE LLB

Ross has been involved in the private equity and venture capital industry in Asia, Australia and New Zealand since 1987. He is a founding director and shareholder of Direct Capital. He is involved in all Fund activities within Direct Capital, but in particular, with investor and governance issues.

Ross played a key role in establishing the venture capital industry in New Zealand and was a driver behind the formation of the New Zealand Venture Capital Association.

Ross has been a director or manager representative in a number of Direct Capital portfolio companies including Blue Star (telecommunications and stationery suppliers), Nobile Wines (winery), Pri Flight Catering (flight catering), EMS (software), Comunicado (TV and film production) and Robinhood Limited (appliance manufacturing), which operate in industries ranging from early stage technology businesses to late stage large scale manufacturers.

Prior to establishing Direct Capital, Ross was a director of Grant Samuel's Auckland office and a partner in BKW Partners, a Hong Kong-based private equity house which managed a US\$50 million Thai Asset Fund and a pan-Asian investment portfolio. Early in his career he worked as an attorney with Baker & McKenzie.

#### MARK HUTTON B.Com

Mark is a founding director of Direct Capital and has a strong background in private equity specialising in mergers, acquisitions and funding structures for portfolio companies.

Mark has been a director or manager representative for a number of portfolio companies including Airwork (aviation services), Blue Star Group, Gallagher Infomanagement (mailhouse), Nobile Wines, Open Holdings (telco equipment vendor), Pacific Turbine (aircraft engine maintenance), Pri Flight Catering, Robinhood Limited, Tasman Building Products (building products), Datacap (Document Management),

Integration Management (Billing Software), Image Centre (Web design), Moore Gallagher and Moore Australia (database and print management) where he has developed a strong understanding for and track record of growing shareholder value.

Mark spent seven years in Europe as Group Treasury Manager of Gestetner Holdings Plc (turnover \$2.5 billion, net assets \$500 million) and was a director of Gestetner Securities BV, Monaco Branch prior to founding Direct Capital.

#### RICHARD HUGHES M.A., ACA

Richard joined Direct Capital in 2003. Richard has extensive experience of all aspects of private equity, from fund raising, marketing, investment, portfolio management, investment realisation and investor relations, having spent the last 16 years in the private equity industry. He has worked in the UK, Africa, Asia and the Pacific Rim, most recently as CEO of China Capital Partners, which managed a US\$100 million private equity fund focused on mainland China.

Richard gained his initial private equity experience in the UK with 3i Group plc, Europe's leading private equity firm. Prior to this Richard qualified as a Chartered Accountant with Arthur Andersen in London and started his career as a structural engineer with W.S. Atkins.

#### TONY BATTERTON B.Com, CA.

Tony rejoined Direct Capital in July 2004 after returning from five years in the United Kingdom where he worked in private equity and investment banking, most recently as an Associate Director with HSBC Investment Bank. Tony's role at Direct Capital is to source and execute new investment opportunities.

Prior to moving to London in 1999 Tony was at Direct Capital for three years, and previously qualified as a Chartered Accountant with Price Waterhouse.

#### SIMON PLOWMAN B.Com

Simon has recently rejoined Direct Capital after returning from the United Kingdom where he worked for two years in Finance Manager and Financial Controller roles for NTL plc.

Before moving to the United Kingdom Simon worked in the New Zealand venture capital industry

for 3 years, for both Direct Capital and Carter Holt Harvey New Ventures. At Carter Holt Harvey New Ventures Simon worked on mentoring and funding early stage businesses and evaluating start-up businesses in the incubation unit. Prior to this Simon was an investment analyst at Direct Capital.

The Manager will also draw on other executives within the Direct Capital group, currently Gavin Lonergan, Kory Fagan, Rodney Harris, Howard Moore, Dr Andrew Kelly and Esther Vernon as required by the needs of Pohutukawa.

## **INVESTMENT COMMITTEE**

The initial Investment Committee will comprise:

### **MURRAY DAVIES**

Independent Director,  
Pohutukawa Private Equity Limited  
(See Section 6 - Pohutukawa Board of Directors)

### **ROSS GEORGE LLB**

Managing Director,  
Direct Capital Private Equity Limited  
(See Investment Management Team.)

### **MARK HUTTON B.Com**

Director, Direct Capital Private Equity Limited  
(See Investment Management Team.)

### **NEIL CRAIG B. Ag Com**

Managing Director, ABN AMRO Craigs Limited  
(See Section 6 - Pohutukawa Board of Directors.)

### **BILL KERMODE B.Sc, M.A. (Oxon)**

Director, Direct Capital Private Equity Limited

Bill is one of the three founding directors of Direct Capital Private Equity and been directly involved in all of Direct Capital's Fund raising and investment activities during its existence.

Bill has strong and wide-ranging experience in private equity, venture capital and corporate venturing. He has been director of a number of Direct Capital Fund portfolio companies including EziBuy and EziBuy Pty (catalogue selling of

apparel, homeware, and gifts), Ryman Healthcare (retirement village developers and operators), EFTPOS New Zealand (EFTPOS terminal rental), PC Direct (PC manufacture), Robinson Industries, and Communicado.

Bill is responsible for Direct Capital's corporate venturing initiative with Carter Holt Harvey, and for the food, agri-business and agri-biotechnology Fund, Life Science Ventures ('LSV'), currently being raised.

Bill has also been a director of the TAB and the Public Trust Investment Board. In the 1980s, Bill established the currency and interest rate options business at DFC and negotiated its sale to the BNZ in 1990. He has relationships with many of New Zealand's leading institutional investors dating back to this time.

### **SELWYN BLINKHORNE B.CA**

Selwyn is an ABN AMRO Craigs equities research analyst specialising in smaller market capitalisation New Zealand companies and providing research on selected smaller Australian companies. Prior to joining ABN AMRO Craigs in 2002, Selwyn held equities research positions with BNZ Funds Management (4 years) and Merrill Lynch NZ (8 years) and has been in the sharebroking industry for 20 years.



## 08. Investment track record



Within the Manager, Direct Capital will play a key role in the investment management of Pohutukawa. Over the past ten years, Direct Capital has established a track record of successfully making, managing and producing strong returns from private equity investments.

While relevant to an investor’s assessment of the credentials and expertise of Direct Capital, the historical data provided below in relation to Direct Capital is no guarantee of, nor necessarily an indication of, Pohutukawa’s future financial performance.

### FUNDS

To date Direct Capital has successfully raised four Funds with total capital available for investment of more than NZ\$220 million.

Direct Capital Partners Limited, Direct Capital's first Fund, was formed in 1994 to provide a major alternative source of equity capital for private, unlisted companies. Direct Capital Partners was raised at a time when the private equity market in New Zealand was in its infancy. Direct Capital Partners was initially capitalised at NZ\$51 million primarily with institutional money from 16 Australasian financial institutions. In 1998 Direct Capital Partners was bought out by Emerald Capital.

In 1998, Direct Capital started its second private equity Fund which draws on an open ended capital pool provided by a combination of institutions and high net worth individuals. To date this has called and invested in excess of NZ\$35 million.

In 2000, Carter Holt Harvey, an NZSX and ASX listed company, announced it was establishing its first corporate venture Fund, also to be managed by Direct Capital. The NZ\$15 million Fund has invested in businesses that are linked to Carter Holt Harvey's core business areas and strategic direction.

In 2002, Direct Capital established its fourth Fund, TMT Ventures, with NZ\$103 million of capital and

Telecom NZ as a cornerstone investor. TMT includes a commitment of NZ\$15 million by the New Zealand Government, through its NZ Venture Investment Fund (NZVIF). TMT Management (the manager of TMT Ventures) is a joint venture between Direct Capital and global private equity manager, Advent International.

Direct Capital is currently in the process of capital raising for LSV, a Fund to be focused on food, agri-business and agri-biotechnology emanating from within Australasia. LSV will invest across the entire spectrum of private equity, including both early and later stage investments. In these specific sectors Pohutukawa will invest through and with LSV drawing on its specialist expertise.

### INVESTOR BASE

As an established private equity manager, Direct Capital Funds have received investment from over 20 financial investors including many of New Zealand’s leading financial institutions, as well as global institutions seeking access to the New Zealand private equity market. These have included AMP, AXA / Alliance Capital Management, ING and the NZ VIF.

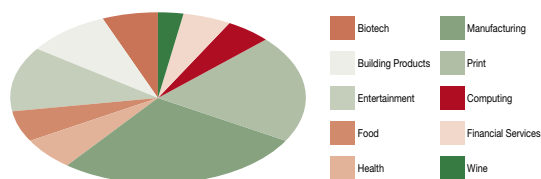
### PORTFOLIO TRACK RECORD

To date Direct Capital has superintended 34 investments exceeding NZ\$150 million, including 6 investments in Australia. It has achieved 15 liquidity events, including 4 IPOs, providing a portfolio IRR on Realised Investments for Funds managed by Direct Capital or its related companies of an effective 21%<sup>21</sup>, after management and earnout fees. Direct Capital also continues to manage investments for the existing Funds under its management.

Direct Capital has overseen investment in a wide range of private companies giving investors a balanced and diversified portfolio. Investments have covered much of the New Zealand economy including aged care, construction materials, leisure, manufacturing, print, software, telecommunications, transportation and wine. Many of these investments have been in industry leaders and household names not accessible through the listed equity markets and provided investors with a diversified portfolio not accessible through alternative sources.

Within New Zealand, the Direct Capital’s demonstrable track record of success is unique.

### DIRECT CAPITAL REALISED TRACK RECORD BY SECTOR (INVESTED CAPITAL)



21. Calculated by taking the cash flows since inception of Direct Capital in 1994 from all Realised Investments of Funds managed by it and/or its related companies to date (last realisation in 2003) and then deducting management fees equivalent to those which apply to Pohutukawa. Historical performance is however no guarantee of future performance, which may be less than or exceed historical financial performance.



## **EZIBUY**

*Direct Capital's second Fund invested in September 1999.*

*Established in Palmerston North in 1978, EziBuy Limited has grown to become one of Australasia's largest and most progressive 'multi-channel' retailers. Its eleven flagship catalogues per annum cover all clothing categories plus Christmas gifts and houseware. Its women's wear sales are estimated to represent nearly 5% of total New Zealand women's wear market sales.*

*In 1999 Direct Capital provided expansion capital to support the founding shareholders' vision of becoming New Zealand's catalogue market leader and to expand its Australian operations.*

*In early 2002, EziBuy raised new equity and debt to fund the acquisition of the database and brands of its largest Australian competitor, Myer Direct. Myer Direct was the Coles Myer Limited's catalogue business, selling women's apparel and home and gifts products.*

*Direct Capital also supported EziBuy's acquisition of 50% of children's wear retailer Just Kids, which specialises in clothing for children aged from 0 to 8 years. EziBuy has become an Australasian business with the majority of its sales denominated in Australian dollars. It has proven its ability to successfully manage Trans-Tasman growth.*

*'Direct Capital has helped us move from being a New Zealand success story to an Australasian success story' - Gerard Gillespie, Co-Founder and Director'.*

*STATUS: EziBuy has grown significantly since the investment by Direct Capital and provides a regular income stream to investors. Direct Capital continues to work with EziBuy management and the founding shareholders.*

## 09. Fund investment strategy

### INVESTMENT OBJECTIVES

The Manager aims to provide shareholders with returns in excess of those normally earned from comparable listed market indices, by investing into businesses in New Zealand and Australia that do not have ready access to the capital markets.

By this means, Pohutukawa also seeks to provide retail investors with access to investment opportunities not normally available to them and, thereby, increase portfolio diversification.

### INVESTMENT STRATEGY

It is the aim of the Board of Pohutukawa Private Equity to pursue a relatively low risk investment strategy consistent with the strategy of Funds previously managed by Direct Capital.

Pohutukawa's investment focus will therefore be on the provision of capital to established businesses with strong growth opportunities and the ability to generate sustainable positive cash flows. This will be achieved through an emphasis on expansion capital, buy outs and buy ins.

The Manager will seek to add value through providing strategic, financial and governance expertise and will typically exert influence through representing Pohutukawa on the board of each investee company.

### INVESTMENT CRITERIA

The Board has developed the following investment criteria to guide the Manager and ensure that Pohutukawa builds a portfolio of investments that is diversified in terms of sector, stage of development and location.

#### Sectors

Pohutukawa will look to invest in a wide range of sectors including manufacturing, service, consumer products, distribution, tourism, food, agribusiness and retail.

Pohutukawa will limit the amount of funds invested in any one sector at 25% of Committed Capital.

Pohutukawa will commit 10% of Committed Capital and, subject to the approval of the Investment

Committee, will commit a further 10% of Committed Capital to investments through LSV. LSV is a specialist Fund currently being established to focus on food, agri-business and agri-biotechnology. LSV is to be co-managed by Direct Capital. A majority of the LSV Investment Committee members will also be members of the Manager's Investment Committee.

#### Size of Investments

Pohutukawa will adopt prudential limits and will cap single investments into any one company or group of related companies at 20% of Committed Capital.

Where the prospective investment is too large or would exceed Pohutukawa's desired exposure to an individual investment or industry segment, the Manager may seek to co-invest with others.

#### Co-investment within the Direct Capital Group

Pohutukawa will seek to co-invest alongside other Direct Capital managed and co-managed Funds to facilitate a more diverse portfolio of investments (see also Section 11- Summary of the Management Agreement).

#### Geographic Scope

Pohutukawa will seek to make investments in New Zealand and Australia. It is expected that the majority of Pohutukawa's investments will be in New Zealand.

#### Stage of Development

Pohutukawa will focus on expansion, buy out/buy in, private placement, pre IPO and PIPE situations. It may elect to participate in early stage investments but will limit its exposure to 10% of its Committed Capital.

#### Investment Horizon

Pohutukawa will typically invest in businesses as a long term investor.

**PC DIRECT MANUFACTURER AND DISTRIBUTOR OF PERSONAL COMPUTERS**



*Direct Capital Partners invested NZ\$4.3 million in PC Direct Limited in May 1995.*

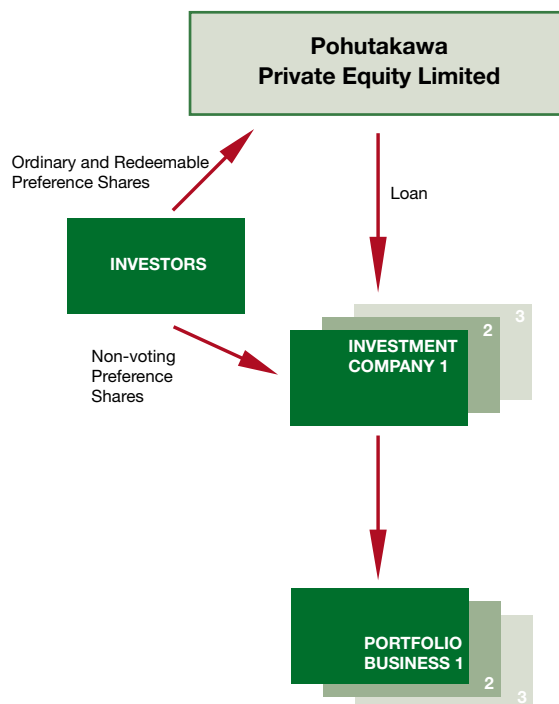
*PC Direct was started in 1989 by young Executive Managers Sharon Hunter and Maurice Bryham and quickly became a high growth, well-run company with an excellent industry position that manufactured, distributed and supported personal computers under its own brand in New Zealand. Its sales channel was the direct, phone-based channel, by-passing the reseller network.*

*Commencing business in 1989, the company grew to revenues of NZ\$18 million in 1993 and NZ\$45 million in 1995. In May 1995 Direct Capital invested and was the first financial investor funding introduced to the company, providing the expansion capital required to expand its New Zealand operation and fund the construction of a purpose built 45,000 square foot manufacturing distribution centre in Albany. 'Direct Capital provided us with both the capital and expertise which enabled us to continue our growth.' - Maurice Bryham, Co-Founder.*

*STATUS: Following the acquisition of the Australian business, PC Direct was acquired by US Office Products in October 1996, realising Direct Capital a gross internal rate of return of 37% and a cash multiple of 1.4x.*

## 10. Structure, governance and reporting

The Pohutukawa structure is shown schematically as follows.



Pohutukawa consists of Pohutukawa Private Equity and 25 Investment Companies.

Investors will hold 'Shares'. Each Share will comprise one ordinary voting share (nil issue price) and 100 non-voting redeemable preference shares of one cent each in Pohutukawa Private Equity, together with one non-voting preference share (nil issue price) in each of the 25 Investment Companies. Pohutukawa will issue up to 40 million Shares (with provision for over-subscriptions to an aggregate of 80 million Shares) at an issue price of \$1.00 per Share.

Pohutukawa's investment in specific portfolio businesses will be via one of the 25 Investment Companies formed for this purpose.

Pohutukawa will provide capital as required to each Investment Company. Until it is required for investment in a portfolio business subscription money received by Pohutukawa will be held in interest bearing deposits.

By investing through Investment Companies Pohutukawa is able to provide a more effective mechanism for delivering investment returns to investors on an investment by investment basis.

As investee businesses distribute earnings, return capital or are themselves realised by the Investment Companies, proceeds will typically be returned directly to investors. The original cost of the investment will be returned to investors by redemption of the redeemable preference shares they hold in Pohutukawa Private Equity, whilst capital gains will be returned to investors by redemption of the preference shares they hold in the Investment Companies.

### GOVERNANCE AND MANAGEMENT

Ordinary shares held by investors in Pohutukawa Private Equity confer normal voting rights on the investors. The preference shares held by investors in both Pohutukawa Private Equity and the Investment Companies will confer no voting rights.

The Manager will hold all the ordinary voting shares in each of the Investment Companies and will exercise these rights in accordance with the Pohutukawa investment policy and the investment criteria.

Pohutukawa Private Equity will retain a separate Board to ensure best practice corporate governance and that the shareholders' interests are held paramount. For so long as it holds at least 50% of the issued shares in the Manager, ABN AMRO Craigs will be entitled to appoint up to 50% of the directors of Pohutukawa Private Equity. All other directors of Pohutukawa can be appointed or removed by ordinary resolution of the investors.

The Board will set the investment policy and criteria, and will review the performance of the Manager from time to time and will report to the shareholders on the content of this review. It will review the capital adequacy of Pohutukawa, be responsible for continuous disclosure and set timely shareholder meetings of Pohutukawa.

The Directors of each Investment Company can be appointed or removed only by the Manager (being the holder of the ordinary shares in the Investment Company).

The Manager is a 50/50 joint venture between Direct Capital and ABN AMRO Craigs, both of whom provide services to the Manager on a contract basis. Direct Capital provides investment management services. ABN AMRO Craigs provides fund raising, cash management, administration, investor communication, and investment sourcing and disinvestment assistance. The Investment Committee of the Manager is responsible for all investment decisions, subject to compliance with the investment policy set by the Board.

## REPORTING

The Manager will keep the Board informed of the progress of Pohutukawa and its investments.

Information regarding the performance of Pohutukawa and the companies Pohutukawa has invested in will be provided to investors on a semi-annual basis.

All other information such as portfolio valuation, financial statements of Pohutukawa, and distribution statements will be conveyed to investors through an annual report. Information provided to investors will be subject to confidentiality agreements with each of Pohutukawa's portfolio businesses.

Semi-annual and Annual reports will be distributed via post to all shareholders in Pohutukawa Private Equity Limited. Pohutukawa also intends to make all general information on Pohutukawa, as well as reporting, available on the website [www.pohutukawafund.co.nz](http://www.pohutukawafund.co.nz).



# 11. Summary of the Management Agreement

## **THE MANAGER'S RESPONSIBILITIES**

Under the Management Agreement Pohutukawa Private Equity appoints the Manager as sole and exclusive provider of investment management and administrative services to Pohutukawa and the Manager is given broad powers to deal with and manage (including without limitation by buying and selling) the property of Pohutukawa as agent of Pohutukawa. The Manager is responsible for all investment and divestment decisions, subject to compliance with the investment policy set by the Board.

Each of the Manager, Direct Capital and ABN AMRO Craigs has agreed that it will not provide investment management and/or administrative services to any other public private equity fund resident in New Zealand, until Pohutukawa has invested 70% of Committed Capital.

The Manager is authorised to incur costs and expenses on behalf of Pohutukawa in the conduct of its investment management and administration roles, and can delegate functions outside its areas of core competency and expertise to third parties; and more generally hire advisers and other specialists to supplement its work (for example, in the context of due diligence investigations).

## **MANAGEMENT FEES AND EARNOUT**

In return for managing Pohutukawa and the investments it makes, the Manager is paid an annual management fee and will share in the returns from Investment Companies above a prescribed minimum.

The Manager will use the annual management fee to meet its own operating expenses but is entitled to be reimbursed for third party expenses it incurs on behalf of Pohutukawa. The Manager's share of Investment Company returns is aimed at aligning the interests of the Manager and the Pohutukawa investors.

Payment levels negotiated by the Board are in keeping with industry norms and are as follows.

### *Annual Management Fee*

From the Closing Date for the Offer until all capital has been called and is due and owing or five years, whichever is earlier, the Manager will receive an annual fee equivalent to 2.25% plus GST of Committed Capital. Thereafter the Manager will receive an annual management fee based on 2.25% plus GST of Invested Capital. In the event that Pohutukawa has written down an investment (and the management fee has reduced as a consequence) and the relevant investment is then sold or otherwise liquidated at a value higher than that written down amount, the Manager shall be entitled to a make good payment to reduce or (if the sale proceeds exceed original cost) eliminate the fee reduction. For the avoidance of doubt, no additional fee is payable by Pohutukawa for the management services provided by the LSV manager in respect of any investments made by Pohutukawa in LSV.

The Manager reserves for itself the discretion to negotiate fee rebate arrangements directly with beneficial applicants allotted 500,000 or more Shares.

### *Earnout Payment*

The Manager will receive an earnout payment of 20% of the net returns from Pohutukawa. This will only be payable once investors have received back their original investment together with further distributions producing pre-tax compound hurdle rate of 8% per annum on Called Capital. Thereafter the Manager will receive a 'catch up' earnout until it has received 20% of net returns and any additional further distributions will be made on the basis of an 80/20 split between investors and the Manager.

There is no provision for clawback of any earnout payment made if aggregate payments over the life of Pohutukawa exceed the payment that would have been due if a single cumulative calculation had been made on the termination date of the Management Agreement. This could occur if, for example, the Manager receives an earnout payment in respect of an early distribution which would not have been due if later events (for example, unsuccessful investments) had been taken into account.

## TERM OF THE MANAGEMENT AGREEMENT

The Management Agreement continues until each of the companies comprising Pohutukawa is liquidated, unless terminated earlier as a consequence of the occurrence of an insolvency event, or an act of negligence, material breach or serious misconduct on the part of a party. Also the Manager may resign its appointment by giving 180 days written notice. In addition, Pohutukawa Private Equity may terminate the Management Agreement if any three members of the Manager's Investment Committee (excluding any independent director of Pohutukawa Private Equity appointed to that committee) resigns or otherwise ceases to be actively involved in management and review of Pohutukawa's investments. Upon early termination of the agreement each of Pohutukawa Private Equity and the Manager may require the Manager to sell the ordinary shares it holds in each Investment Company to Pohutukawa (or its nominee) at 75% of fair value (if termination occurs as a result of an insolvency or default event on the part of, or resignation of, the Manager), or 100% (otherwise) of fair value, of such shares. Pohutukawa Private Equity can, at its option, fund the purchase price of such ordinary shares out of unallocated funds or uncalled capital, or defer payment until investments are realised or distributions on them received, or the ordinary shares are sold to a replacement manager.

## CO-INVESTMENT

The Manager (or each of Direct Capital and/or ABN AMRO Craigs, or their nominees, in its stead) has the right to co-invest with Pohutukawa, on the same terms, in any investment opportunity presented to Pohutukawa (or the Manager on its behalf), to a maximum of 10% of the investment amount offered to Pohutukawa.

Pohutukawa may in addition co-invest in investment opportunities in which other funds managed by Direct Capital participate, and will be afforded a participation opportunity proportionate to the proportion which Committed Capital bears to the aggregate funds managed by Direct Capital and its associated parties. The Manager may sell any of

Pohutukawa's securities in combination with other sales on the same terms by other funds administered by Direct Capital and its associated parties, in proportions reflecting the respective amounts invested in the relevant entity by vending parties.

The board of directors of Pohutukawa Private Equity will receive quarterly reports as to any co-investment or divestment undertaken by the Manager (or Direct Capital, ABN AMRO Craigs or their nominees) with Pohutukawa, or by Pohutukawa with other Funds managed by Direct Capital and in this manner will monitor compliance by relevant entities with the above procedures.

## INDEMNITY

Pohutukawa has agreed to indemnify the Manager, and its officers, employees, advisers and agents, against losses and costs incurred by reason of the Manager performing its obligations under the Management Agreement except those resulting from the gross negligence, fraud, dishonesty or wilful default of an indemnified party.

## 12. Financial information

### TAXATION

The investment criteria for Pohutukawa is to invest in companies with an objective of long term growth and to maximise dividend yield, wealth creation and provide regular returns to investors. The Board of Pohutukawa Private Equity has a stated intention to invest on capital account, although it has the ability (on an exceptional basis) to acquire shares with a dominant purpose of resale, profits from sale of which would be separately treated as taxable income.

Pohutukawa expects to receive dividend payments from the businesses it invests in, and expects to distribute these payments, to the extent they are not used to meet management expenses or debt servicing, to its shareholders. Dividend payments received from companies subject to New Zealand tax may have imputation credits attached, which can be passed on to investors. No imputation credits will arise from payment of Australian tax by investee companies. To the extent they are not fully imputed, dividends paid by Pohutukawa will be subject to resident withholding tax at 33%.

Pohutukawa will be managed such that any capital gains are not expected to be taxed in the hands of passive investors who did not purchase their Shares for the purpose of resale or as part of a profit making scheme.

### APPLICATION FEE

An application fee of 2% of the total issue price of the Shares is payable by investors to the Lead Manager upon application. The application fee may be used to pay brokerage to approved Primary Market Participants and brokers and advisors approved by the Lead Manager.

### ISSUE EXPENSES

Issue expenses of up to \$250,000 will be paid by Pohutukawa Private Equity. These expenses include printing, registry, legal, audit and financial advisory fees. Any costs above this will be met by the Manager.

### DISTRIBUTIONS

Pohutukawa and its Investment Companies expect to earn interest from cash held on deposit, and receive dividends and other distributions from the businesses they invest in, as well as capital gains when they divest from investee businesses.

Each portfolio investment made by Pohutukawa will be made through a separate Investment Company formed for the purpose. Upon a realisation of its investment in a particular investee business, the Investment Company through which Pohutukawa invested will be liquidated and the net proceeds will be returned to investors via their preference shareholdings in the Investment Companies and their redeemable preference shareholding in Pohutukawa. The Manager will receive its return through its holdings of ordinary shares in Investment Companies.

Distributions by Pohutukawa will be lumpy and investors should not expect any significant distributions during the first three years after the Closing Date.

### VALUATIONS

The Manager may revalue an asset held by Pohutukawa at any time, at its discretion.

Valuations will be completed annually and will be completed on a prudent basis. The valuation principles adopted will be in accordance with those set out by the industry body AVCAL (Australian Venture Capital Association Limited.)

Until a valuation is made in accordance with the above principles the value of an asset will be taken to be at cost. Unlike many listed investment entities revaluation of the underlying asset will not result in an increase in the management fee payable.

### DEAL REFERRAL AND CO-INVESTMENT WITH OTHER FUNDS MANAGED BY THE MANAGER

Direct Capital is involved in managing and co-managing other Funds. The management agreement requires that Direct Capital apportions investment opportunities amongst Funds it (or its associated or related parties) is managing or co-managing on a basis that is pro-rata to the committed capital of each such Fund subject to the exception noted below.

Direct Capital is involved in managing and/or co-managing a number of Funds that are sector specific. Within their specific sectors these Funds have a first right of refusal when an investment opportunity is sourced by Direct Capital.

Specifically at this time Direct Capital is involved in the co-management of TMT Ventures, a Fund focused on early stage investments in telecommunications, media and technology. In addition Direct Capital is in the process of establishing Life Science Ventures, a Fund

focussed on food, agri-business and agri-biotechnology. Both of these Funds will have priority on any investment opportunity, sourced by Direct Capital in their specific investment sectors.

Subject to the foregoing, Pohutukawa will have the chance to co-invest alongside these Funds on all deals. In addition up to 20% of Pohutukawa will be committed for direct investment through LSV.

The Board will monitor the co-investment policy and its implementation by the Manager on behalf of the investors in Pohutukawa.

### **OBLIGATION TO PAY SUBSCRIPTION MONIES**

The subscription price of the Shares is payable in three tranches.

When investors make an application for Shares, they subscribe for all Shares applied for, and also make a commitment to meet the total subscription price of \$1.00 per Share. The amount payable upon application represents an initial call of \$0.40 per \$1.00 on Shares applied for, plus the full application fee of \$0.02 per Share. The subsequent two calls of \$0.30 each will be limited in total to the remaining amount of \$0.60 per Share allotted to an investor.

Calls in respect of Shares must be approved by the Board and (except with the prior consent of the Manager) can only be made when previously paid up capital has been fully invested. Investors will receive at least 3 months notice of payment of a call.

No calls will be made after the fifth anniversary of the Offer Closing Date.

### **INVESTOR DEFAULT ON A CALL**

If an Investor does not pay a call on committed funds on the due date the following consequences apply:

- the Investor will be liable to pay a default rate of interest on the amount that remains unpaid, at a rate of 4% per annum above the 90 day bank bill rate;
- the Board will give the investor a further notice demanding payment after the date the notice is served;
- if the investor fails to pay within 5 working days of such notice, the Board may resolve that the Shares in respect of which payments have been called but are unpaid and the other partly paid Shares will be forfeited (forfeited shares);

- Pohutukawa may sell the forfeited Shares, subject to identifying a buyer;
- the proceeds of sale will be used to pay the outstanding call on the forfeited shares and any interest on the outstanding call;
- the balance of any proceeds of sale, if any, will be returned to the Investor.

If Pohutukawa cannot effect a sale of the forfeited shares or the sale proceeds do not fully pay the amounts outstanding, the Investor will remain fully liable to Pohutukawa to pay the shortfall and any subsequent calls.

### **ACCOUNTS**

Pohutukawa accounts will be prepared in accordance with the Financial Reporting Act 1993.

### **SET OFF**

Pohutukawa may choose to apply sums payable to investors from the income or realisation of investments against outstanding capital calls rather than return capital and then make a capital call.

### **BORROWING POWERS**

Pohutukawa will have no power to borrow, other than in respect of borrowings with a maturity date not in excess of 90 days (provided that in no case shall such borrowings exceed called but unpaid capital commitments).

Pohutukawa may provide guarantees or other equivalent measures of performance as credit support for the benefit of an investee business, but only in the context of, and where provided by way of consideration for, the acquisition by Pohutukawa of a portfolio investment.

### **TRANSFERABILITY OF SHARES**

Transfers of Shares will be subject to Board approval. In certain circumstances, the Board may not approve the transfer of shares; for example if the transfer were to impact negatively on Pohutukawa's tax position.

## 13. Risks

Private equity investment offers the potential for superior returns but also carries with it inherent risks. Investors should seek independent investment and taxation advice before they invest in Pohutukawa.

This Offer Document does not take into account the personal circumstances, financial position or investment requirements of any one person in particular. It is therefore imperative that before making investment decisions, investors give consideration to the suitability of Pohutukawa in light of their investment needs, objectives and financial circumstances.

The following risk factors, as well as others described elsewhere in this Offer Document, should be carefully considered before investing in Pohutukawa.

### GENERAL RISKS

#### *Macroeconomic Factors*

The investments made by Pohutukawa will be subject to both domestic and international economic forces which are beyond the control of the Manager. Macroeconomic fluctuations will produce changes in the market prices of securities and the cost and availability of debt securities employed in private equity transactions. These fluctuations may impact on the value of the investments made through Pohutukawa.

#### *Country Risk*

As Pohutukawa has the capacity to be exposed to businesses that have some proportion of their operations outside New Zealand, some investment will be exposed to country risk. Investors should be aware of the potential impact on asset prices of political and sovereign risk, expropriation and regulatory differences in the enforcement of contracts.

#### *Currency Risk*

Where company revenues and costs are denominated in currencies other than New Zealand dollars, and where Pohutukawa acquires assets with offshore divisions, final returns calculated in New Zealand dollars will be impacted by currency fluctuations.

#### *Legislation*

Changes in legislation or Government policy including that applying to taxation, accounting and the environment, could have an impact on the operations, earnings and performance of Pohutukawa or on distributions to investors.

### SPECIFIC RISKS

#### *Company and Sector Risk*

The performance of businesses that Pohutukawa invests in may be less than expected as a result of unforeseen developments such as unexpected changes in technology or competition that results in product obsolescence, changes in personnel or operating systems or changes in market conditions.

#### *Key Personnel Risk*

The kind of investments undertaken by Pohutukawa may place a heavy reliance on key management or operational personnel of the businesses in which Pohutukawa invests. The performance of these companies and of the investments in them, may be affected by the loss of key company personnel.

#### *Dilution of Investment*

After an investment has been made by Pohutukawa, an investee company may seek further funding, from a source other than Pohutukawa, which could dilute or devalue Pohutukawa's equity position in the company.

#### *Competition for Investment Opportunities*

The popularity of private equity as an investment class is increasing and there is increased competition for investee opportunities as a result. Pohutukawa may not be able to find suitable businesses to invest in and may not be able to put together the diversified portfolio of later stage investee businesses that it plans to. As a consequence, returns earned by Pohutukawa may be lower and risks may be higher.

### ***Slow Rate of Investment***

Pohutukawa may take longer to invest in investee businesses than the 3-5 years anticipated. This risk is partly mitigated by staging the payment of subscription capital. If Pohutukawa is unable to satisfactorily invest the first tranche of capital received at the time the offer closes, it will not call the balance of unpaid capital.

### ***Leveraged Investments***

Transactions which Pohutukawa will undertake may involve a high level of debt in the investee company. Highly geared transactions involve significant risk, including risks associated with interest rate fluctuations. The obligation to make interest payments on borrowed money may reduce the businesses' ability to pay dividends and increases the chance of insolvency.

### ***Liquidity and Installment Default***

Investing in Pohutukawa requires a long term commitment with no certainty of return. Many of Pohutukawa's investments will be highly illiquid and there can be no assurance that Pohutukawa will be able to realise such investments in a timely manner. In addition there is no ability to withdraw capital from Pohutukawa and there is no formal market for the Shares. Whilst ABN AMRO Craigs will endeavour to match sellers and buyers of the Shares on an informal basis, there may not be any buyers or sellers of the Shares and/or the price of the Shares may be different to the assessed value of the underlying investments. Listing of the Shares is not currently being sought. To facilitate liquidity, after consultation with the Manager, the Board can, by unanimous Board consent, require Pohutukawa to apply to list with NZX at any time.

If a significant number of investors do not meet their irrevocable undertaking to subscribe for unpaid Shares when required to do so, Pohutukawa's capacity and ability to invest quickly will be adversely affected.

### ***Early Stage Investment***

Pohutukawa may invest up to 10% of Funds raised in the Offer in early stage businesses which may have an increased risk of failure. There is therefore a risk that some of Pohutukawa's investments may not return some or all of the capital invested in them.

### ***Reliance on the Manager***

Investors will have no opportunity to control day to day operations, including investment and disposition decisions, of Pohutukawa. They must rely on the ability of the Manager in identifying, structuring, managing and liquidating potential investments. Investors are reliant on the key personnel in the management team. The performance of Pohutukawa could suffer if the Manager ceases to be involved in the management of Pohutukawa or its investments. Similarly, the performance of Pohutukawa could be affected by a significant loss of key personnel.

### ***LSV***

LSV is currently in the process of being established by Direct Capital. If minimum levels of commitment are not secured from other investors in respect of that Fund, it will not proceed and Pohutukawa will not participate in it.

### ***Termination of Management Agreement***

In certain circumstances the Management Agreement can be terminated (see page 33). In addition, the Manager may resign. In either circumstance, an alternative manager will need to be appointed by Pohutukawa. There is no guarantee that a replacement manager with equivalent credentials and expertise will be appointed in that circumstance. In addition, if the Management Agreement is terminated the Manager can require Pohutukawa to purchase the Manager's ordinary shares in the Investment Companies at fair value (or a discount to that where the Management Agreement is terminated for cause). Pohutukawa will need to fund this purchase (from uncalled capital and/or available cash or distributions, as and when received) or by selling such shares to a replacement manager. There is no guarantee that the price at which such shares are sold to a replacement manager will be equal to (or greater than) the purchase price of such shares paid by Pohutukawa.

## 13. Risks

### ***Competing Mandates***

Persons associated with the Manager may have competing mandates. In such circumstances, the Manager will generally invest on a basis that is pro-rata to the committed capital of each Fund under its management as set out in Section 12 - Financial Information on page 34.

### ***Past Performance***

The Manager is a new company and has no operating history. The past performance of Funds managed by persons associated with the Manager are not necessarily a guide to the future performance of Pohutukawa. Similarly, the past performance of companies in which Pohutukawa invests is not necessarily a guide as to the future performance of these companies.

### ***Taxation***

The following information is of a general nature only. Tax consequences will to some extent depend on individual circumstances, and investors should seek advice from their own tax advisor as to the consequence of an investment in Pohutukawa.

Any gain realised on sale by an Investment Company of its shares in a New Zealand resident investee company will be subject to tax if:

- the gain is derived from the carrying on of a business by Pohutukawa (for this purpose all the Investment Companies are treated as one entity);
- the shares were acquired by the Investment Company with a dominant purpose of resale; or
- the sale is part of a profit-making undertaking or scheme.

It is not possible to predict with certainty the result of application of these tests. The tests are highly fact specific, and the result will depend not only on the companies' current intentions, but also on the actual operation of Pohutukawa in the future.

If Pohutukawa realises an Australian investment by way of a direct sale of shares in an Australian company, Australian capital gains tax of 30% will generally apply to any gain on sale, unless the company is listed and Pohutukawa owns less than 10% of the company.

Tax laws are subject to change, potentially with retrospective effect.

### ***Performance of the Underlying Investee Companies***

The returns to investors in Pohutukawa will be influenced by the performance of the underlying investments and hence the factors influencing the financial position of those entities.

### ***Consequences of Insolvency***

Investors will not be obliged to pay any additional money (in excess of the Offer Price, including any unmade call) to any person in the event of insolvency of Pohutukawa or any of the Investment Companies. All claims of creditors or other parties against Pohutukawa or any of the Investment Companies rank ahead of the claim of investors in the event of any liquidation or winding up of Pohutukawa or any of the Investment Companies. All investors rank equally upon a winding up or liquidation of Pohutukawa or an Investment Company, in each case for an equal share per Share of any surplus assets of Pohutukawa or the Investment Company, after payment or discharge of other claims. No other persons currently rank equally with, or behind, such claims.

No guarantee can be given in respect of the future earnings of Pohutukawa or the earnings and capital appreciation of Pohutukawa's investments.

This list is not exhaustive and potential investors should read this Offer Document in full and, if they require further information on material risks, seek professional advice.

Investors are strongly advised to regard any investment in Pohutukawa as a long term proposition and to be aware that, as with any equity investment, substantial fluctuations in the value of their investment may occur.

### ***Risk Mitigation***

Where appropriate the Manager will seek to mitigate the risks above through investing in a portfolio of investments which are across a range of sectors and in businesses at different stages in their development. The Manager will use established evaluation techniques and aim to negotiate and document terms with investee companies which reduce the risks of investment. The Manager will actively monitor its investments and seek to take a role in the strategic direction of an investee company.





## 14. Answers to important questions

### WHAT SORT OF INVESTMENT IS THIS?

#### Description of Securities

The Offer consists of a total of 40 million Shares to be offered for subscription by Pohutukawa. Pohutukawa may accept over subscriptions of up to a further 40 million Shares. A description of the Shares is set out in Section 10 - Structure, Governance and Reporting, on page 30. Each 'Share' consists of one ordinary share and 100 redeemable preference shares in Pohutukawa Private Equity together with one preference share in each of the 25 Investment Companies.

### WHO IS INVOLVED IN PROVIDING IT FOR ME?

#### The Issuers

Names of each of the Issuers are set out in Clause 3 of Section 15 - Statutory Information, on page 44. The address of each of the Issuers is:

c/- ABN AMRO Craigs Limited,  
Farming House  
102-104 Spring Street  
Tauranga

The Issuers are newly incorporated companies that have not carried on any business activities to date.

The intended activities of the Issuers are set out in Section 9 - Fund Investment Strategy on page 28.

#### The promoters

The promoters of the Offer for the purposes of the Securities Act 1978 are Pohutukawa Management Limited and each of its directors (other than directors of the Issuers) being Ross Andrew George (Auckland) and Kenneth Christopher Phillip (Papamoa), Direct Capital Private Equity Limited and each of its directors (other than directors of the Issuers) being Ross Andrew George (Auckland) and William James Kermode (Auckland), and ABN AMRO Craigs Limited and each of its directors (other than directors of the Issuers) being Simon Christopher Allen (Auckland), Michael John Caird (Wellington), David Nicholas Coleman (Tauranga), Hamish Buchanan Mackay (Wanganui), and Grahame Henry Fawcett Pratt (Camberay, Australia). Each director of Direct Capital can be contacted at Direct Capital at the address set out in Section 18 - Corporate Directory. Each director of the Manager and ABN AMRO Craigs can be contacted at ABN AMRO Craigs at the address set out in Section 18 - Corporate Directory.

### HOW MUCH DO I PAY?

Applications must be for a minimum of 10,000 Shares at an issue price of \$1.00 per Share thereafter in multiples of 1,000 Shares. \$0.40 of the Share issue price is payable on application along with a \$0.02 per Share application fee to cover the cost of brokerage, as further described in Section 3 - Key Terms of the Offer, on page 8. The remaining \$0.60 per Share of investors' total investment commitment is uncalled and unpaid, and is payable when called by Pohutukawa.

Two further subscriptions of \$0.30 each for a total of \$0.60 per Share will be called before the fifth anniversary of the Closing Date. Pohutukawa may make proposed calls by providing investors with at least 3 months notice and, except with the prior consent of the Manager, can only be called when previously paid up capital has been fully invested.

Application for Shares must be made in accordance with the application instructions set out in the Application Form. In particular, payment must be made by cheque made out in favour of 'The Pohutukawa Share Offer' and crossed 'Not Transferable' and completed Application Forms (together with payment of \$0.42 per Share) should be mailed or delivered to the Primary Market Participant through which the firm allocation was obtained or the Lead Manager.

All application fees are inclusive of GST, if any.

### WHAT ARE THE CHARGES?

In return for the performance of its duties as Manager of Pohutukawa, the Manager is entitled to be paid a Management Fee as set out in Section 11 - Summary of the Management Agreement on page 32.

In addition to the issue price for the Shares each applicant is required to pay an application fee of \$0.02 per Share applied for. The application fee is payable to the Manager upon application and may be used to pay brokerage to approved Primary Market Participants and brokers and advisors approved by the Lead Manager.

The Offer expenses will be paid out of the proceeds from the Offer up to a limit of \$250,000. Offer expenses in excess of this amount will be met by the Manager.

Neither shareholders nor the Issuers have any right to alter any of the charges applicable to the Shares.

## 14. Answers to important questions

### WHAT RETURNS WILL I GET?

The return investors will be entitled to receive on their investment in Shares will be amounts received on liquidation of Issuers (whether in cash or in specie), repayments of capital by an Issuer, dividends paid by an Issuer and, if investors sell the Shares, the difference between the issue price and the eventual sale price of the Shares, after taking account of transaction costs and taxes (where relevant).

The key factors that determine the returns to investors are set out in Section 3 - Key Terms of the Offer, Section 10 - Structure, Governance and Reporting, Section 12 - Financial Information, Distributions and Section 13 - Risks. Returns to investors may also be affected by relevant taxes.

No returns are promised to investors. There is no specified frequency, nor are there any specified dates for liquidations, repayments of capital and/or payments of dividends. In the case of liquidations, repayments of capital or payments of dividends, the relevant Issuer is the person legally liable to pay the returns. There will be no established market for sale of Shares.

### WHAT ARE MY RISKS?

The principal risks of an Investor's subscription money not being recovered in part or whole by a Investor, or an Investor not receiving the returns referred to under 'What returns will I get?' above are set out in Section 13 - Risks, on page 36.

Applicants should also review the potential risks raised in the taxation summary set out in Section 12 - Financial Information, on page 34. No Investor will at any stage be required to pay more money in respect of a Share than the amounts set out under 'How much do I pay?' above.

It is possible that a Investor will receive, in total, less than the amount of the issue price paid up by that Investor if the returns produced by Pohutukawa (after deducting all relevant fees, costs and expenses) are negative.

No Investor will or may be liable to pay money to any person as a result of the insolvency of any Issuer (other than any amounts of the issue price of Shares uncalled, or called but unpaid). In a liquidation situation, a Investor's claim on the

assets of the Issuers will rank behind the claims of any secured and unsecured creditors the Issuers may have. Holders of Shares will rank equally among themselves in the event of liquidation or winding up.

### CAN THE INVESTMENT BE ALTERED?

The terms and conditions on which the Shares can be purchased (including the amounts payable by subscribers) but excluding the application fee can only be altered by amendment to this Offer Document. Details of any such amendment must be filed with the Registrar of Companies.

The shareholders may alter the constitution of Pohutukawa Private Equity by special resolution (other than the provisions of the constitution entitling ABN AMRO Craigs to Board representation, changes to which provisions require in addition the written approval of ABN AMRO Craigs). The Manager may alter the constitutions of the Investment Companies by special resolution subject to restrictions on alteration of class rights of investors under Sections 116 and 117 of the Companies Act 1993. Pursuant to the Management Agreement, the Manager has covenanted in favour of the holder of Shares from time to time not to vary or amend the terms of shares issued by the Investment Companies, unless permitted to do so by ordinary resolution approval of Pohutukawa Private Equity.

### HOW DO I CASH IN MY INVESTMENT?

Investors may sell their Shares to another person (subject to the discretion of the Directors). While in the opinion of each of the Issuers there is unlikely to be an established market for such sales, ABN AMRO Craigs will endeavour to assist Share transfers where appropriate (subject to group tax considerations).

Each Share includes 100 redeemable preference shares in Pohutukawa Private Equity and one redeemable preference share in each Investment Company. These shares may be redeemed in accordance with their terms by the relevant Issuer.

Sales of Shares may be subject to brokerage charges.

### **WHO DO I CONTACT WITH ENQUIRIES ABOUT MY INVESTMENT?**

Enquiries about the Shares should be directed in writing to:

ABN AMRO Craigs Limited  
Farming House  
102-104 Spring Street  
PO Box 13155  
Tauranga  
Attention: Peter Lalor  
Phone: (07) 577 6049

### **IS THERE ANYONE TO WHOM I CAN COMPLAIN IF I HAVE PROBLEMS WITH THE INVESTMENT?**

Complaints about the Shares may be made in writing to:

ABN AMRO Craigs Limited  
Farming House  
102-104 Spring Street  
PO Box 13155  
Tauranga  
Attention: Peter Lalor  
Phone: (07) 577 6049

There is no ombudsman to whom complaints about the Shares can be made.

### **WHAT OTHER INFORMATION CAN I OBTAIN ABOUT THIS INVESTMENT?**

#### **The Offer Document**

Other information relating to the Shares is contained or referred to in this Offer Document. Investors are advised to read the rest of this Offer Document carefully.

Additional copies of this Offer Document may be obtained from ABN AMRO Craigs, at the addresses set out in the Section 18 - Corporate Directory, free of charge. This Offer Document and other documents of, or relating to, the Issuers may be viewed on the Companies Office website at [www.companies.govt.nz](http://www.companies.govt.nz) or during normal business hours at the registered office of the Issuers which is

set out in the Section 18 - Corporate Directory. Where relevant documents are not available on the Companies Office website a request for the documents may be made by contacting Searchlink at [info@searchlink.co.nz](mailto:info@searchlink.co.nz)

#### **Annual information**

Each Investor is entitled to receive notice of general meetings of Pohutukawa Private Equity Limited and to receive the following additional documents:

- a semi-annual report of Pohutukawa;
- distribution statements, when a distribution is paid by Pohutukawa Private Equity Limited or the Issuers; and
- an annual report of Pohutukawa including pro forma consolidated financial statements of Pohutukawa.

## 15. Statutory information

The following includes, but is not limited to, particulars given pursuant to the First Schedule to the New Zealand Securities Regulations 1983. The numbering used for the principal paragraphs in this section correspond with the clause numbering used in that Schedule.

### 1. MAIN TERMS OF OFFER

#### Issuer

The Issuers of the Shares are Pohutukawa Private Equity Limited and each of the Investment Companies. The registered office of all of the Issuers is stated in the Section 18 - Corporate Directory.

#### Description of Securities Offered

The securities being offered are Shares in the Issuers. A fuller description of the Shares is set out in Section 10 - Structure, Governance and Reporting.

#### Maximum Number

The number of Shares being offered is 40 million (being 40 million ordinary voting shares and 4,000 million non-voting redeemable preference shares in Pohutukawa Private Equity and 40 million non-voting redeemable preference shares in each Investment Company) subject to an over-subscription option of an additional 40 million Shares. The ordinary shares in Pohutukawa have no nominal value and the redeemable preference shares in Pohutukawa have a nominal value (issue price) of \$0.01 each. The preference shares in the Investment Companies have no nominal value (issue price).

#### Price or Other Consideration

The Shares are being offered at a price of \$1.00 per Share. \$0.40 per Share is payable upon application, then proceeds of the initial call will be applied to pay up in full 40 (of the total 100) non-voting redeemable preference shares in Pohutukawa Private Equity represented in each Share. Further calls in respect of the unpaid component of each Share will be made by Pohutukawa Private Equity before the fifth anniversary of the Closing Date and will be applied to pay up in full remaining non-voting redeemable preference shares in the Pohutukawa Private Equity, represented in each Share.

In addition to this, an application fee equal to \$0.02 per Share is also payable to the Manager upon application as brokerage for payment to approved Primary Market Participants or brokers or advisers approved by the Lead Manager. Additional details are set out in Section 3 - Key Terms of the Offer.

### 2. NAME AND ADDRESS OF OFFEROR

As the Shares are not previously allotted securities, the Issuers are also the offerors, and therefore the disclosure requirements of Clause 2 of the First Schedule to the Regulations are not applicable.

### 3. DETAILS OF INCORPORATION OF ISSUER

#### Date and Number

All of the Issuers were incorporated in New Zealand under the Companies Act 1993. Their dates of incorporation and registered numbers are set out in the table below:

COMPANY	DATE OF INCORPORATION	REGISTERED NUMBER
Pohutukawa Private Equity Limited	16 August 2004	1538533
Pohutukawa Alpha Investments Limited	16 August 2004	1543424
Pohutukawa Beta Investments Limited	16 August 2004	1543425
Pohutukawa Gamma Investments Limited	17 August 2004	1543426
Pohutukawa Delta Investments Limited	17 August 2004	1543428
Pohutukawa Epsilon Investments Limited	17 August 2004	1543429
Pohutukawa Zeta Investments Limited	17 August 2004	1543440
Pohutukawa Eta Investments Limited	17 August 2004	1543431
Pohutukawa Theta Investments Limited	17 August 2004	1543432
Pohutukawa Iota Investments Limited	17 August 2004	1543433
Pohutukawa Kappa Investments Limited	17 August 2004	1543435
Pohutukawa Lambda Investments Limited	17 August 2004	1543436
Pohutukawa Mu Investments Limited	18 August 2004	1543438
Pohutukawa Nu Investments Limited	18 August 2004	1543439
Pohutukawa Xi Investments Limited	18 August 2004	1543443
Pohutukawa Omicron Investments Limited	18 August 2004	1543444
Pohutukawa Pi Investments Limited	18 August 2004	1543446
Pohutukawa Rho Investments Limited	18 August 2004	1543450
Pohutukawa Sigma Investments Limited	18 August 2004	1543451
Pohutukawa Tau Investments Limited	18 August 2004	1543453
Pohutukawa Upsilon Investments Limited	18 August 2004	1543456
Pohutukawa Phi Investments Limited	18 August 2004	1543458
Pohutukawa Chi Investments Limited	18 August 2004	1543459
Pohutukawa Psi Investments Limited	18 August 2004	1543463
Pohutukawa Omega Investments Limited	18 August 2004	1543466
Pohutukawa Alpha-Pi Investments Limited	18 August 2004	1543467

#### PLACE FILE KEPT

The public file relating to each of the Issuers can be accessed on the Companies Office website at [www.companies.govt.nz](http://www.companies.govt.nz). Where relevant documents are not available on the website a request for the documents can be made by contacting Searchlink at [info@searchlink.co.nz](mailto:info@searchlink.co.nz). Charges are payable.

## 15. Statutory information

### 4. PRINCIPAL SUBSIDIARIES OF ISSUER

None of the Issuers have any subsidiaries or assets at the date of this Offer Document.

### 5. DIRECTORATE AND ADVISERS

#### Details

The names of the Directors of Pohutukawa Private Equity and their technical or professional qualifications are set out in Section 6 - Pohutukawa Board of Directors on page 18 and in Section 7 - The Manager on page 21. The Directors of Pohutukawa Private Equity can be contacted at the registered office of the Issuers, which is set out in the Section 18 - Corporate Directory.

The sole Director of each of the Investment Companies is Mark Robert Hutton, whose technical and professional qualifications are set out in Section 7 - The Manager on page 24. The sole Director of each Investment Company can be contacted at the office of the Issuers, which is set out in the Section 18 - Corporate Directory.

#### Executive Directors

No Director is an employee of any of the Issuers.

#### No Bankruptcy

No Director of the Issuers has been adjudged bankrupt during the five years preceding the date of this Offer Document.

#### Advisers

The names of the Issuers' auditor and securities registrar, the Lead Manager and solicitors who have been involved in the preparation of this Offer Document, are set out in Section 18 - Corporate Directory.

#### Organising Participant

The organising participant for this Offer is ABN AMRO Craigs Limited, the address of which is set out in Section 18 - Corporate Directory.

#### Experts

There are no experts named in this Offer Document.

### 5a. RESTRICTIONS ON DIRECTOR'S POWERS

The Issuers' constitutions impose the following modifications, exceptions and limitations on the powers of the Directors:

- Limitations on the Directors' powers to alter investors' rights and enter major transactions, reflecting the provisions contained in Sections 117 and 129, respectively, of the Companies Act 1993;
- Limitations on the Directors' ability to increase and issue Shares, except in certain circumstances permitted by the Issuers' Constitutions.
- Limitations on the Directors' ability to alter the operating or financial policies of the Investment Companies from those described in this Offer Document.

The Companies Act 1993 contains a number of other provisions, which could have the effect or consequence, in certain circumstances, of restricting the powers of the Directors. Such provisions are common to any company registered under the Companies Act 1993.

### 6. SUBSTANTIAL EQUITY SECURITY HOLDERS OF THE ISSUER

#### Names and Shares Held

As at the date of this Offer Document, Pohutukawa Private Equity has 100 ordinary shares on issue, which shares are held by the Manager. Immediately after the Offer, Pohutukawa Private Equity intends to buy back and cancel these 100 shares.

As at the date of this Offer Document, each of the Investment Companies has 100 ordinary shares on issue, which are held by the Manager.

#### No Investor Liability

Neither the Manager, Pohutukawa Private Equity Limited, any promoter nor any Investment Company undertakes any liability in respect of, or guarantees, the Shares being offered under this Offer Document

### 7. DESCRIPTION OF ACTIVITIES OF THE ISSUING GROUP

None of the Issuers has yet commenced business or acquired any assets. The intended activities of the Issuers are set out in Section 9 - Fund Investment Strategy on page 28 of the Offer Document.

## 8. SUMMARY OF FINANCIAL STATEMENTS

None of the Issuers have commenced business. Apart from costs incurred in incorporation and those relating to this Offer Document, none of the Issuers have acquired any assets or incurred any debts. Therefore, no historical financial statements have been prepared.

## 9. PROSPECTS AND FORECASTS

A statement as to the trading prospects of the Issuers is set out in Section 9 - Fund Investment Strategy on page 28, Section 12 - Financial Information on page 34 and Section 13 - Risks, on page 36 of the Offer Document.

The Issuers are exempt from providing a Prospective Statement of Cash Flows as set out under the 'Provisions Relating to Initial Flotations' below.

## 10. PROVISIONS RELATING TO INITIAL FLOTATIONS

### Directors' Plans

During the year commencing on the date of this Offer Document the Directors plan to undertake private equity investments in accordance with the strategy set out in Section 9 - Fund Investment Strategy on page 28. The sources of finance for these plans comprise the funds received pursuant to the Offer of Shares in this Offer Document.

### Use of proceeds not limited to stated plans

Notwithstanding the plan of the Directors, the proceeds of the Offer of Shares may be applied towards any other undertaking that the Issuers may lawfully engage in.

### Prospective Statements of Cash Flows

Under the Securities Act (Pohutukawa Private Equity Limited ) Exemption Notice 2004, the Issuers and every person acting on their behalf are exempted (subject to certain conditions) from clause 10(1)(c) of the First Schedule of the Regulations. Pohutukawa has not provided a Prospective Statement of Cash Flows because the Issuers are all newly incorporated and the Manager has not yet decided which other companies the Issuers will invest in or the timing of such investments. Further, the income of the Issuers rely on the companies that they invest in declaring dividends which is difficult

for the Issuers to predict at this time. In addition, a Prospective Statement of Cash Flows would not be particularly relevant to potential investors because the dividend income is unpredictable and therefore the prediction may bear no resemblance to the actual cash flow. The Issuers advise investors that investors should regard investment in the Shares as high risk.

### Assumptions

As there are no financial statements attached, there are no relevant principal assumptions.

### Minimum amount required to be raised

For the purposes of Section 37(2) of the Securities Act 1978, the minimum amount that, in the opinion of the Directors, must be raised by the issue of Shares under this Offer Document is \$40 million, being the total subscription amount payable on 40 million Shares.

## 11. ACQUISITION OF BUSINESS OF SUBSIDIARY

None of the Issuers in the five years preceding the date of this Offer Document have acquired any businesses or subsidiaries, and none of the Issuers plans to acquire any specific business or subsidiary at the date of this Offer Document.

## 12. SECURITIES PAID UP OTHERWISE THAN IN CASH

The existing shares in each of the Issuers were issued upon incorporation for no consideration. None of the Issuers has otherwise allotted any securities otherwise than in cash.

## 13. OPTIONS TO SUBSCRIBE FOR SECURITIES OF ISSUING GROUP

No options have been granted, and it is not proposed to grant any options to subscribe for any shares in any of the Issuers.

## 14. APPOINTMENT AND RETIREMENT OF DIRECTORS

### Existing Appointments

None of the existing Directors have been appointed to the Boards of the Issuers in a manner which is materially different from that specified in Sections 153 and 155 of the Companies Act 1993.

## 15. Statutory information

### Retirement Age

There is no retirement age for the Directors of the Issuers.

### Right to Appoint Additional Directors

For so long as it holds not less than 50% of the issued shares in the Manager, ABN AMRO Craigs is entitled to appoint up to 50% of the directors of Pohutukawa Private Equity, and cannot vote on the election of any other directors of Pohutukawa Private Equity. ABN AMRO Craigs has appointed Mr Neil Craig and Mr William Stevens pursuant to this right. Other than the foregoing, no person has any right to appoint any Director other than the holders of ordinary shares of the relevant Issuer by ordinary resolution or the Directors acting as a board of the relevant Issuer.

### Alternate Directors

Each Director has power to appoint an alternate director, who may be any person not disqualified by the Companies Act 1993 and who is approved by a majority of the other Directors. Unless otherwise provided by the terms of his or her appointment, an alternate Director shall have all the powers, rights, duties and privileges of a Director (other than the right to appoint an alternate Director).

### 15. DIRECTORS' INTERESTS

None of the Directors of the Issuers are entitled to any other remuneration from the Issuers, other than by way of director's fees (which in aggregate will amount to a maximum of \$100,000 per annum for non-executive Directors), fees paid to an independent director in his or her capacity as a member of the Investment Committee and reasonable travelling, accommodation and other expenses incurred in the course of performing duties or exercising powers as Directors. In addition Directors may from time to time, subject to appropriate disclosures in accordance with the procedures of the Companies Act 1993, provide consulting services to Pohutukawa, on normal arms length terms.

### Other Remuneration

The Issuers have granted to the Directors an indemnity to the maximum extent permitted by the Companies Act 1993 and their constitutions, as further described under

'Material Contracts' in paragraph 17 of this Section. The Issuers also have power to effect insurance for Directors and employees pursuant to the Companies Act 1993 and the Issuers' Constitutions.

### Material Transactions with Directors

During the 5 years before the date of this Offer Document, no material transaction has been entered into between the Issuers and any Director or other person described in clause 15(4) of the First Schedule to the Securities Regulations.

### 16. PROMOTERS

The promoters of the Offer for the purposes of the Securities Act 1978 are Pohutukawa Management Limited and each of its directors (other than directors of the Issuers) being Ross Andrew George (Auckland) and Kenneth Christopher Phillip (Papamoa), Direct Capital Private Equity Limited and each of its directors (other than directors of the Issuers) being Ross Andrew George (Auckland) and William James Kermode (Auckland), and ABN AMRO Craigs Limited and each of its directors (other than directors of the Issuers) being Simon Christopher Allen (Auckland), Michael John Caird (Wellington), David Nicholas Coleman (Tauranga), Hamish Buchanan Mackay (Wanganui) and Grahame Henry Fawcett Pratt (Camberay, Australia).

Pohutukawa Private Equity has entered into a Management Agreement with the Manager dated 2 September 2004. Details of the Management Agreement are set out in Section 11 - Summary of the Management Agreement on page 32. As no property is acquired or disposed of pursuant to this agreement, none of the details prescribed in clause 16(2)(c) to (i) inclusive of the First Schedule to the Securities Regulations apply.

### 17. MATERIAL CONTRACTS

The Issuers have entered into the following material contracts (not being a contract entered into in the ordinary course of business) in the two years preceding the date of this Offer Document:

- Management Agreement between each of the Issuers Direct Capital, ABN AMRO Craigs and the Manager dated 2 September 2004. Details of the Management Agreement are



set out in Section 11 - Summary of the Management Agreement on page 32; and

- A Deed of Indemnity granted by Pohutukawa Private Equity in favour of each director of Pohutukawa Private Equity, dated 2 September 2004;
- A Deed of Indemnity granted by each of Pohutukawa Private Equity and each Investment Company, in favour of the directors of the Investment Companies, dated 2 September 2004.

#### **18. PENDING PROCEEDINGS**

There are no legal proceedings or arbitrations that are pending or current at the date of registration of this Offer Document that may have a material adverse effect on any of the Issuers.

#### **19. PRELIMINARY AND ISSUE EXPENSES**

Preliminary and issue expenses associated with the Shares being offered to be met by the Issuers are estimated by the Directors to be \$250,000. No commission or brokerage is to be paid out of the issue expenses - brokerage is to be paid out of the application fee as set out on page 8.

#### **20. RESTRICTIONS ON ISSUING GROUP**

Other than the borrowing restriction disclosed under 'Borrowing Powers' at Section 12 - Financial Information, there are no restrictions, being restrictions that result from any undertaking given, or contract or deed entered into, by the Issuers, that limit their ability to distribute profits or borrow.

#### **21. OTHER TERMS OF OFFER AND SECURITIES**

All terms of the Offer, and all terms of the Shares being offered, are set out in this Offer Document except those implied by law, or contained in a document which is registered with a public official, available for public inspection and referred to in this Offer Document.

#### **22-38. FINANCIAL STATEMENTS**

There are no historical financial statements for the Issuers, as the Issuers have not commenced business.

#### **39. PLACES OF INSPECTION OF DOCUMENTS**

The material contracts referred to above, the auditor's report and consent, and the constitution of each of the Issuers may be viewed on the Companies Office website at [www.companies.govt.nz](http://www.companies.govt.nz) or during normal business hours at the registered office of the Issuers which is set out in the Directory. Where relevant documents are not available on the Companies Office website a request for the documents may be made by contacting Searchlink at [info@searchlink.co.nz](mailto:info@searchlink.co.nz)

#### **40. OTHER MATERIAL MATTERS**

There are no other material matters relating to the offer of the Shares (other than matters elsewhere set out in this Offer Document).

#### **41. DIRECTORS' STATEMENT**

The Issuers have not commenced business or produced any financial statements, and therefore the requirements of clause 41 of the First Schedule to the Regulations are not applicable.

#### **42. AUDITOR'S REPORTS**

There are no historical financial statements for the Issuers, as the Issuers have not commenced business. In addition, the issuers have received an exemption from sub-clause 10(1)(c) of the First Schedule to the Securities Act Regulations 1983. Accordingly the auditor's reports prescribed by this clause are not applicable.

This Offer Document is dated 2 September 2004.

A copy of this Offer Document has been signed by or on behalf of each of the Directors of the Issuers, the Promoters and each director of the Promoters (other than those directors who are also directors of the Issuers).



## 16. Glossary of terms

<b>ABN AMRO Craigs</b>	means ABN AMRO Craigs Limited.
<b>Board</b>	means the board of directors of Pohutukawa Private Equity Limited.
<b>Called Capital</b>	means the Committed Capital of Pohutukawa Private Equity less both uncalled capital and all amounts distributed by Pohutukawa to investors (up to a maximum of aggregate paid up capital).
<b>Closing Date</b>	means 5pm on 8 October 2004.
<b>Committed Capital</b>	means the product of the total issue price of \$1.00 per Share and the number of Shares issued.
<b>Direct Capital</b>	means Direct Capital Private Equity Limited.
<b>Directors</b>	means the directors of the Issuers.
<b>Early Stage investments</b>	means investments into unlisted companies which are not profitable at an operating level.
<b>Fund</b>	means a private equity investment programme.
<b>Invested Capital</b>	means the Committed Capital of Pohutukawa Private Equity Limited less both the uncalled capital and the original cost of investments, to the extent realised and returned to investors or written off.
<b>IRR</b>	means internal rate of return - the discount rate, expressed as an annual percentage, which, when applied to a series of cash flows, results in a net present value of zero as at the date of the calculation.
<b>Issuers</b>	means Pohutukawa Private Equity and each of the Investment Companies.
<b>Investment Companies</b>	means the 25 listed companies listed in clause 3 of Section 15 - Statutory Information.
<b>Lead Manager</b>	means ABN AMRO Craigs Limited.
<b>LSV</b>	means Life Science Ventures a Fund to be formed and co-managed by Direct Capital focused on the food, agri-business and agri-biotechnology sectors in New Zealand and Australia.
<b>Manager</b>	means Pohutukawa Management Limited.
<b>NZX</b>	means New Zealand Exchange Limited.
<b>Offer Document</b>	means this combined prospectus and investment statement.
<b>Pohutukawa</b>	means Pohutukawa Private Equity Limited and, where applicable, its related Investment Companies.
<b>Pohutukawa Private Equity</b>	means Pohutukawa Private Equity Limited.
<b>Realised Investments</b>	means investments where a liquidity event has occurred and returns are measurable. This includes both sold and listed investments.
<b>Regulations</b>	means the Securities Regulations 1983.
<b>Securities Act</b>	means the Securities Act 1978 (as amended).
<b>Share Registrar</b>	means BK Registries Limited.
<b>Share</b>	means a stapled set of shares comprising one ordinary voting share and 100 non-voting redeemable preference shares in Pohutukawa Private Equity together with one non-voting preference share in each of the Investment Companies.

## 17. Application form - applying for Shares

### APPLICATION INSTRUCTIONS

Read the Offer Document carefully before applying for Shares.

- List your full name, contact address and telephone details. Applications must be in the name(s) of natural persons, companies or incorporated bodies. At least one full first name and surname are required for each natural person. Applications in the name of a minor, trust, fund or estate, business, firm or partnership, club or other unincorporated body cannot be accepted. In those cases, applications must be made in the name(s) of the person(s) who is (are) legal guardian(s), trustee(s), proprietor(s), partner(s) or office bearer(s) as appropriate. A maximum of three applicants may apply jointly.

#### Examples of correct form of registrable names:

TYPE OF INVESTOR	INSTRUCTION	CORRECT FORM
INDIVIDUAL	<i>Use given name in full, not initials</i>	John Joseph Johns
COMPANY	<i>Use company title, not abbreviations</i>	ABC Limited
TRUSTS	<i>Do not use the names of deceased or trust name, use trustee(s) names; all trustees may apply as joint applicants</i>	Susan Jones & John Jones/Susan Jones Family A/C
DECEASED ESTATES	<i>Do not use the names of the deceased, use executor(s) personal names</i>	Michael Jones Estate/John Jones A/C
PARTNERSHIPS	<i>Do not use the names of partnership, use partner(s) personal names</i>	John Jones & Michael Jones/John Jones & Son A/C
CLUBS/UNINCORPORATED BODIES	<i>Do not use names of clubs etc, use office bearer(s) personal names</i>	Susan Jones/ABC Tennis Association A/C
SUPERANNUATION FUNDS	<i>Do not use the name of the fund, use the name of the trustee</i>	John Jones Limited/Super Fund A/C

- Enter your Inland Revenue Department number. If it is a joint application, only one Inland Revenue Department number is required.
- The minimum application amount under the Offer is NZ\$10,000 (paid up on initial application to \$4,000). Applications must be made in multiples of NZ\$1,000.
- Sign and date the application form. The application form must be signed by each applicant. Companies must sign by authorised signatories of the company. The applicant only may sign the application form unless another person has been duly appointed as the attorney of the applicant. If an attorney signs, he/she must complete the section on the bottom of the application and enclose his/her power of attorney.
- The completed application form, together with a cheque for the full amount applied for, should be mailed or delivered to the Primary Market Participant whose stamp appears on the application form, or the Lead Manager, in time to be received by BK Registries Limited no later than 5pm on 8 October 2004.
- Cheques should be made out to 'The Pohutukawa Share Offer' and crossed 'Not Transferable'.

### TERMS AND CONDITIONS OF APPLICATIONS

- By signing the application form, applicants acknowledge that the application form was distributed with the Offer Document and that their application for Shares is made subject to the terms and conditions set out in the Offer Document.
- Upon receipt, application monies will be banked pending allotment/transfer. The banking of such monies shall not constitute allotment/transfer of any Shares.
- The Directors, in consultation with the promoters and Lead Manager, will allot/transfer Shares as soon as practicable after the Closing Date.
- Subject to minimum shareholding parcels of 1,000 Shares, the Directors in consultation with the Lead Manager reserve the right to allot/transfer Shares in full to any applicant, or to allot any lesser number, or to decline any application. Where the number of Shares allotted/transferred is less than the number of Shares applied for, or no Shares are allotted, surplus application monies will be refunded to the applicant, without interest, within 5 days of the Closing Date.
- Shareholding statements will be dispatched to Shareholders as soon as practicable after allotment/transfer but in any event no later than five business days after Closing Date.
- Applicants agree that once lodged with Pohutukawa Private Equity, applications for Shares cannot be revoked or withdrawn.

PRIMARY MARKET PARTICIPANT'S STAMP

FOR INSTRUCTIONS ON HOW TO COMPLETE AND DELIVER THIS FORM SEE THE ACCOMPANYING APPLICATION INSTRUCTIONS.

**1. APPLICANT(S) DETAILS** (Block letters please)

<b>Title</b>	<b>Legal First Name(s)</b>	<b>Legal Family Name</b>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

**Corporate Name**  **IRD Number**

**Postal Address**  **Phone Home** ( )

**Suburb**  **Phone Work** ( )

**City**  **Fax** ( )

**Postcode**  **Email (optional)**

**Common Shareholder Number (CSN)**

Please attach Resident Withholding Tax Exemption Certificate if you have one

**2. APPLICATION AMOUNT - IMPORTANT**

- A Share comprises 1 ordinary share and 100 redeemable preference shares in Pohutukawa Private Equity together with 1 preference share in each of the Investment Companies.
- The minimum application amount under the Offer is NZ\$10,000 (paid up on initial application to \$4,000). Applications must be made in multiples of NZ\$1,000.
- An application fee of NZ\$20 per 1000 Shares is also due at the time of application.
- Cheques should be made payable to 'The Pohutukawa Share Offer' and crossed 'Not Transferable'.
- Payment must be made in New Zealand dollars and drawn on a registered New Zealand bank. Cheques must not be post dated.
- Applications received by BK Registries after 5pm on 8 October 2004 will not be accepted.

**Number of Shares applied for**  **Cheque attached for NZ\$**  (NZ\$400 per 1000 Shares applied for plus the application fee of NZ\$20 per 1000 Shares)

**3. DIVIDEND PAYMENTS** (If Bank Account Details are not completed, dividend cheques will be posted to the above address)

If you currently receive interest or dividend payments from BK Registries Limited by direct credit, BK Registries Limited will pay the dividends from the Shares by direct credit to the same account unless you indicate otherwise. If you wish to have your dividends credited to another account or BK Registries Limited do not have your account details please complete this section.

Please complete only one option.

**OPTION 1. My New Zealand Bank Account details**

**Account Name(s)**

**Account Number**

BANK BRANCH ACCOUNT NUMBER SUFFIX

**OPTION 2. My Cash Management Account details**

**Name of Primary Market Participant where Cash Management Account held**

**Cash Management Client Account Number**

**SIGNATURE(S) OF APPLICANT(S)**

I/We hereby apply for the number of Shares shown above and agree to accept such Shares (or such lesser number as may be allotted) on and subject to the terms and conditions set out in the Offer Document dated 2 September 2004 and on the terms set out in the Application Instructions.

**Signature of Applicant**  **Date** / /

**Signature of Applicant**  **Date** / /

**Signature of Applicant**  **Date** / /

ATTORNEYS: Please complete and sign the certificate of non-revocation overleaf. Upon acceptance, in whole or in part, of an Applicant's offer to purchase Shares, the Company will transfer those Shares to the Applicant and will procure registration of the Applicant as the holder of those Shares, subject to all applicable laws. This Application Form must not be issued, circulated or distributed unless accompanied by the Offer Document.

# Certificate of non-revocation of Power of Attorney

I,  (Name of Attorney)

of  (Address and Occupation of Attorney)

## HEREBY CERTIFY THAT

1. THAT, by a Power of Attorney dated the  day of  MONTH / YEAR

(Name and occupation of person for whom Attorney is signing)

('Donor') appointed me his/her/its Attorney on the terms and conditions set out in the Power of Attorney.

2. THAT I have executed the application for Shares printed on this Application Form under the Power of Attorney and pursuant to the powers thereby conferred on me.

3. THAT at the date of this certificate I have not received any notice or information of the revocation of that Power of Attorney by the death (or winding up) of the Donor or otherwise.

Signed at  this  day of  20

Signature of Attorney

## ADDITIONAL APPLICATION TERMS

By signing this Application Form, the applicant acknowledges that this form was distributed with the Offer Document dated 2 September 2004 and that offers to subscribe for Shares are upon and subject to the terms and conditions set out in the Offer Document. The applicant also acknowledges that he/she/they has/have read and understood the Offer Document. The applicant also acknowledges that the information supplied by him/her/they on the Application Form is true.

Each applicant acknowledges and understands that any Shares in Pohutukawa that are issued to him/her/they will be issued partly paid at an issue price of \$1.00 per Share with an initial amount of \$0.40 per Share payable on application. In addition the applicant must pay an application fee of an application fee equal to \$0.02 per Share (\$20 for every 1000 Shares applied for) on application. The remaining amounts due per Share allotted to applicants (representing \$0.60 per Share allotted) shall remain outstanding and unpaid. Holders will be liable to pay up such unpaid accounts in full when called upon to do so. For the purposes of section 50 of the Companies Act 1993, applicants consent to becoming the holder of Shares applied for by them (or such lesser number of Shares as may be allotted to them).

Each applicant acknowledges and confirms that none of Direct Capital, ABN AMRO Craigs, nor Pohutukawa, nor the Manager nor their respective officers, directors, employees, advisers, associates or affiliates nor any member of the Board (each, 'relevant person') has made any warranties in connection with Pohutukawa or the performance of Pohutukawa and that he, she or they has/have not relied on the contents of any statement, representation, warranty, promise, undertaking or agreement, whether made expressly or by implication by any relevant person.

Each applicant hereby waives its rights (if it/they become(s) a Shareholder) to receive the annual reports and financial statements of each Issuer to the maximum extent permitted by law from time to time subject to such applicant receiving an annual report of Pohutukawa and pro forma consolidated financial statements of Pohutukawa. The applicant may (if it/they become(s) a Shareholder) revoke this waiver at any time by written notice to the Pohutukawa Fund.

An application cannot be withdrawn or revoked by the applicant.

Pohutukawa reserves the right to reject any application in whole or in part without giving any reason.

Certificates for the Shares will be dispatched to successful applicants as soon as practicable after allotment, but in any event no later than 10 working days after the allotment.

In the case of joint applicants, only the address of the first named of the joint applicants will be recorded by Pohutukawa and all distributions, notices, etc, will be sent to the address of the first applicant.

Each applicant confirms that it is not resident in, or organised or incorporated under, the laws of the United States nor any other country or jurisdiction in which the offer or issue of the Shares would be unlawful.

Expressions defined in the Offer Document have the same meanings in this Application Form. This Application Form, offer, and any contract arising out of its acceptance is governed by New Zealand law.

PRIMARY MARKET PARTICIPANT'S STAMP

FOR INSTRUCTIONS ON HOW TO COMPLETE AND DELIVER THIS FORM SEE THE ACCOMPANYING APPLICATION INSTRUCTIONS.

**1. APPLICANT(S) DETAILS** (Block letters please)

<b>Title</b>	<b>Legal First Name(s)</b>	<b>Legal Family Name</b>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

**Corporate Name**  **IRD Number**

**Postal Address**  **Phone Home** ( )

**Suburb**  **Phone Work** ( )

**City**  **Fax** ( )

**Postcode**  **Email (optional)**

**Common Shareholder Number (CSN)**

Please attach Resident Withholding Tax Exemption Certificate if you have one

**2. APPLICATION AMOUNT - IMPORTANT**

- A Share comprises 1 ordinary share and 100 redeemable preference shares in Pohutukawa Private Equity together with 1 preference share in each of the Investment Companies.
- The minimum application amount under the Offer is NZ\$10,000 (paid up on initial application to \$4,000). Applications must be made in multiples of NZ\$1,000.
- An application fee of NZ\$20 per 1000 Shares is also due at the time of application.
- Cheques should be made payable to 'The Pohutukawa Share Offer' and crossed 'Not Transferable'.
- Payment must be made in New Zealand dollars and drawn on a registered New Zealand bank. Cheques must not be post dated.
- Applications received by BK Registries after 5pm on 8 October 2004 will not be accepted.

**Number of Shares applied for**  **Cheque attached for NZ\$**  (NZ\$400 per 1000 Shares applied for plus the application fee of NZ\$20 per 1000 Shares)

**3. DIVIDEND PAYMENTS** (If Bank Account Details are not completed, dividend cheques will be posted to the above address)

If you currently receive interest or dividend payments from BK Registries Limited by direct credit, BK Registries Limited will pay the dividends from the Shares by direct credit to the same account unless you indicate otherwise. If you wish to have your dividends credited to another account or BK Registries Limited do not have your account details please complete this section.

Please complete only one option.

**OPTION 1. My New Zealand Bank Account details**

**Account Name(s)**

**Account Number**

BANK BRANCH ACCOUNT NUMBER SUFFIX

**OPTION 2. My Cash Management Account details**

**Name of Primary Market Participant where Cash Management Account held**

**Cash Management Client Account Number**

**SIGNATURE(S) OF APPLICANT(S)**

I/We hereby apply for the number of Shares shown above and agree to accept such Shares (or such lesser number as may be allotted) on and subject to the terms and conditions set out in the Offer Document dated 2 September 2004 and on the terms set out in the Application Instructions.

**Signature of Applicant**  **Date** / /

**Signature of Applicant**  **Date** / /

**Signature of Applicant**  **Date** / /

ATTORNEYS: Please complete and sign the certificate of non-revocation overleaf. Upon acceptance, in whole or in part, of an Applicant's offer to purchase Shares, the Company will transfer those Shares to the Applicant and will procure registration of the Applicant as the holder of those Shares, subject to all applicable laws. This Application Form must not be issued, circulated or distributed unless accompanied by the Offer Document.

# Certificate of non-revocation of Power of Attorney

I,  (Name of Attorney)

of  (Address and Occupation of Attorney)

## HEREBY CERTIFY THAT

1. THAT, by a Power of Attorney dated the  day of  MONTH / YEAR

(Name and occupation of person for whom Attorney is signing)

('Donor') appointed me his/her/its Attorney on the terms and conditions set out in the Power of Attorney.

2. THAT I have executed the application for Shares printed on this Application Form under the Power of Attorney and pursuant to the powers thereby conferred on me.

3. THAT at the date of this certificate I have not received any notice or information of the revocation of that Power of Attorney by the death (or winding up) of the Donor or otherwise.

Signed at  this  day of  20

Signature of Attorney

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## 18. Corporate directory

### **BOARD OF DIRECTORS OF POHUTUKAWA PRIVATE EQUITY**

Jon Cimino  
Murray Davies  
Neil Craig  
William Stevens

The Directors can be contacted at Pohutukawa's registered office address set out below.

### **OFFICES OF POHUTUKAWA**

C/O ABN AMRO Craigs Limited  
Farming House  
102-104 Spring Street  
PO Box 13155  
Tauranga  
Phone: (07) 577 6049  
Fax: (07) 571 8625

### **AUDITORS**

KPMG  
35 Grey Street  
Tauranga  
Phone: (07) 578 5179  
Fax: (07) 578 2555

### **MANAGERS**

Pohutukawa Management Limited  
C/o ABN AMRO Craigs Limited  
Farming House  
102-104 Sprint Street  
PO Box 13155  
Tauranga  
Phone: (07) 577 6049 or 508 226 226  
Fax: (07) 571 8625

Direct Capital Private Equity Limited  
Level 6, 2 Kitchener Street  
PO Box 6466, Wellesley Street  
Auckland  
Phone: (09) 307 2562  
Fax: (09) 307 2349

ABN AMRO Craigs Limited  
Farming House  
102-104 Spring Street  
PO Box 13155  
Tauranga  
Phone: (07) 577 6049 or 0508 226 226  
Fax: (07) 571 8625

### **LEAD MANAGER AND ORGANISING BROKER**

ABN AMRO Craigs Limited  
Farming House  
102-104 Spring Street  
PO Box 13155  
Tauranga  
Phone: (07) 577 6049 or 0508 226 226  
Fax: (07) 571 8625

### **SHARE REGISTRY**

BK Registries Limited  
138 Tancred Street  
PO Box 384  
Ashburton  
Phone: 03 308 8887  
Fax: 03 308 1311  
Email: info@bkregistries.co.nz

### **SOLICITORS**

Chapman Tripp Sheffield Young  
Level 35, 23-29 Albert Street  
PO Box 2206  
Auckland  
Phone: (09) 357 9000  
Fax: (09) 357 9099