

# NOTICE OF ANNUAL SHAREHOLDERS' MEETING 2012

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**Notice is hereby given that the Annual Shareholders' Meeting will be held at the Guineas Ballroom, Ellerslie Convention Centre, Auckland, New Zealand on Wednesday, 22 August 2012 commencing at 3:00pm**

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## **ORDINARY BUSINESS**

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### **1. FINANCIAL STATEMENTS**

To receive and consider the financial statements and the auditors' report for the year ended 31 March 2012 as contained in the Company's annual report 2012.

### **2. ELECTION OF DIRECTORS**

In accordance with the Company's constitution, to elect by separate ordinary resolutions, as Directors of the Company:

- (a) Roger France, who retires by rotation and, being eligible, offers himself for re-election.  
(See Explanatory Note 1)
- (b) Arthur Morris, who retires by rotation and, being eligible, offers himself for re-election.  
(See Explanatory Note 1)
- (c) Michael Daniell, who was reappointed as Managing Director by the Board on 24 May 2012 and, being eligible, offers himself for election.  
(See Explanatory Note 2)

### **3. AUTHORISE THE DIRECTORS TO FIX FEES AND EXPENSES OF AUDITOR**

By ordinary resolution, to authorise the Directors to fix the fees and expenses of PricewaterhouseCoopers as the Company's auditor.

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## SPECIAL BUSINESS

### 4. FISHER & PAYKEL HEALTHCARE PERFORMANCE SHARE RIGHTS PLAN – ISSUE OF PERFORMANCE SHARE RIGHTS TO THE MANAGING DIRECTOR AND CHIEF EXECUTIVE OFFICER

To consider and, if thought fit, to pass the following ordinary resolution:

“That shareholders approve the issue of up to 30,000 performance share rights under the Fisher & Paykel Healthcare Performance Share Rights Plan to Mr Michael Daniell, Managing Director and Chief Executive Officer of the Company.”  
(See Explanatory Note 3)

### 5. FISHER & PAYKEL HEALTHCARE 2003 SHARE OPTION PLAN – ISSUE OF OPTIONS TO THE MANAGING DIRECTOR AND CHIEF EXECUTIVE OFFICER

To consider and, if thought fit, to pass the following ordinary resolution:

“That shareholders approve the issue of up to 200,000 options under the Fisher & Paykel Healthcare 2003 Share Option Plan to Mr Michael Daniell, Managing Director and Chief Executive Officer of the Company.”  
(See Explanatory Note 4)

### 6. NORTH AMERICAN STOCK PURCHASE PLAN

To consider and, if thought fit, to pass the following ordinary resolution:

“That the Fisher & Paykel Healthcare Corporation Limited Employee Stock Purchase Plan, and in particular the terms relating to the eligibility of participants and the maximum number of shares to be made available under the Plan, be approved.”  
(See Explanatory Note 5)

## PROCEDURAL NOTES

- (i) The persons who will be entitled to vote on the resolutions at the Annual Shareholders' Meeting are those persons who will be the shareholders of the Company at 3:00pm on Monday, 20 August 2012.
- (ii) A shareholder may exercise the right to vote at the Annual Shareholders' Meeting either by being present in person or by proxy. A body corporate which is a shareholder may appoint a representative to attend the Annual Shareholders' Meeting on its behalf in the same manner as that in which it could appoint a proxy.
- (iii) A proxy need not be a shareholder of the Company. A shareholder who wishes to do so may appoint the Chairman of the Meeting to act as proxy.
- (iv) A proxy will vote as directed in the proxy form or, if voting is left to the proxy's discretion, then the proxy will decide how to vote on the resolutions. If the Chairman is appointed as proxy and the voting is left to his discretion, the Chairman intends to vote in favour of each of resolutions 2 to 6.
- (v) A proxy form is enclosed and, if used, must be lodged at the office of the share registrar, Link Market Services Limited, either by mail to PO Box 91976, Auckland 1142, New Zealand or by delivery to Level 16, 19 Victoria Street, Auckland, New Zealand not less than 48 hours before the time of the holding of the meeting (i.e. before 3.00pm on Monday, 20 August 2012).
- (vi) The Company will disregard any votes cast on the resolution set out in Agenda Items 4 and 5 by Michael Daniell and any of his associates (as defined in the Australian Corporations Act 2001).
- (vii) The Company need not disregard a vote cast on Agenda Items 4 and 5 if it is cast by a disqualified person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form.

- (viii) The matters set out in Agenda Items 2, 3, 4, 5 and 6 must be passed by an ordinary resolution of shareholders, i.e., by a simple majority of the votes of those shareholders entitled to vote and voting on the resolution.
- (ix) This Notice of Meeting has been approved by NZX Limited (NZX) in accordance with NZSX Listing Rule 6.1.1. ASX Limited (ASX) has notified the Company that it has “no-objection” to this Notice of Meeting in accordance with ASX Listing Rules 15.1.4 and 15.1.7. The NZX takes no responsibility for any statement in this notice.

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## EXPLANATORY NOTES

Explanatory notes in respect of the resolutions are set out on the following pages.

By Order of the Board of Directors



**Tony Carter**

Chairman  
31 July 2012

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## EXPLANATORY NOTES

### EXPLANATORY NOTE 1 – RE-ELECTION OF DIRECTORS

Under Listing Rule 3.3.11 of the NZSX Listing Rules, and in accordance with the Company's constitution, one third of the Company's Directors must retire by rotation at the Annual Shareholders' Meeting. If the Directors are eligible, they may offer themselves for re-election by shareholders at the meeting. In this case, Roger France and Arthur Morris retire and, being eligible, offer themselves for re-election by shareholders at the Annual Shareholders' Meeting.

Roger France and Arthur Morris are non-executive Directors and are considered by the Board to be Independent Directors, as that capacity is described in the NZSX Listing Rules. Brief biographies outlining the qualifications, history and experience of Roger France and Arthur Morris as directors are set out below. At the Annual Shareholders' Meeting a resolution to re-elect each of Roger France and Arthur Morris will be put to shareholders.

The Board recommends that shareholders vote in favour of the re-election of each of Roger France and Arthur Morris. Each of Roger France and Arthur Morris abstained from any consideration by the Board on their re-election.



**Roger France**

Roger France, 67, became a director in February 2009. Mr France is Chancellor of the University of Auckland, Chairman of Tappenden Holdings Limited, Deputy Chairman of Air New Zealand Limited, a director of Blue Star

Group Holdings Limited and was, until 2008, a director of Fonterra Co-operative Group Limited. He was a partner at PricewaterhouseCoopers and one of its predecessor firms, Coopers & Lybrand, for over 15 years and was the Chief Financial Officer of Allied Farmers Co-operative Limited and Freightways Holdings Limited for ten years. He was the Managing Partner of Coopers & Lybrand in Auckland for five years. Following the merger with PricewaterhouseCoopers,

he led the firm's Corporate Value consulting practice in the Asia Pacific region and served as a member of its Governance Board. Mr France received his Bachelor of Commerce degree from the University of Canterbury and is a Fellow of the New Zealand Institute of Chartered Accountants.



### **Arthur Morris**

Arthur Morris, 56, became a director in February 2008. Dr Morris is a fellow of the Royal Australasian College of Pathologists, the Australasian Society for Microbiology and the Infectious Diseases Society of America. Dr

Morris trained in Dunedin, Invercargill and Auckland before spending 3 years at Duke University Medical Centre, North Carolina, USA, returning to New Zealand in 1994. Dr Morris is Chairman of DNA Diagnostics Limited and the Chief Executive Officer of Diagnostic Medlab Limited. Dr Morris received his First Class Honours (Microbiology) and medical degrees from the University of Otago and his doctoral degree from the University of Auckland.

## **EXPLANATORY NOTE 2 – ELECTION OF DIRECTOR**

Michael Daniell was reappointed by the Board as Managing Director of the Company on 24 May 2012. Under NZSX Listing Rule 3.3.6, and in accordance with the Company's constitution, any director appointed by the Board must retire from office at the next Annual Shareholders' Meeting of the Company but is eligible for election at that meeting. Accordingly, Mr Daniell retires and, being eligible, offers himself for election by shareholders at the Annual Shareholders' Meeting.

Michael Daniell is an executive Director and is not considered by the Board to be an Independent Director, as that capacity is described in the NZSX Listing Rules. A brief biography outlining Mr Daniell's qualifications, history and experience is set out below. At the Annual Shareholders' Meeting a resolution to elect Mr Daniell will be put to shareholders. The Board recommends that shareholders vote in favour of the election of Mr Daniell. Mr Daniell abstained from any consideration by the Board on his election. If Mr Daniell is elected as a Director at the Annual Shareholders' Meeting, his term of appointment as a Director shall not exceed five years (being the maximum period permitted by the Listing Rules), during which time he will be exempt from the obligation to retire by rotation pursuant to NZSX Listing Rule 3.3.12 and the Company's constitution. Following the five year period Mr Daniell will be eligible for re-election as a Director.



### **Michael Daniell**

Mr Daniell, 55, became Managing Director and Chief Executive Officer in November 2001. Mr Daniell served as the General Manager of Fisher & Paykel's healthcare business from 1990 until 2001. From 1979 until 1990, Mr Daniell

held various positions in the business, including product design engineer and technical manager. Mr Daniell has more than 30 years of international healthcare business experience. Mr Daniell received his Bachelor of Engineering degree in electrical engineering with honours from the University of Auckland. Mr Daniell is a member of the Council of the University of Auckland.

### **EXPLANATORY NOTE 3 – FISHER & PAYKEL HEALTHCARE PERFORMANCE SHARE RIGHTS PLAN – ISSUE OF PERFORMANCE SHARE RIGHTS TO THE MANAGING DIRECTOR AND CHIEF EXECUTIVE OFFICER**

#### **Introduction**

The Board engaged independent experts to undertake a review of the Company's remuneration arrangements for senior executives which have previously included the Fisher & Paykel Healthcare 2003 Share Option Plan (the Option Plan).

The review recommended that the Company introduce a performance share rights plan, under which rewards depend on the achievement of a designated total shareholder return hurdle, to operate alongside the Option Plan, under which rewards depend on share price performance relative to a cost of capital benchmark. Having given due consideration to the recommendations, the Board approved the establishment of the Fisher & Paykel Healthcare Performance Share Rights Plan (the Share Rights Plan) in accordance with the Share Rights Plan rules dated 16 July 2012.

The Board believes that the issue of a combination of options and share rights broadly in equal value proportions will provide appropriate incentive for participating employees to grow the total shareholder return of the Company. The combination of the Option Plan and the Share Rights Plan will also assist the Company to attract, motivate and retain key employees in an environment where such employees are in high demand both within New Zealand and internationally. Options and share rights will be issued to employees under the Option Plan and Share Rights Plan as a long-term component of remuneration provided to employees in accordance with the Company's remuneration policy.

Under the Share Rights Plan, the Board may issue share rights to executives, managers and other employees of the Company and its subsidiaries (or a person associated with them). Share rights do

not carry any entitlement to dividends, or the right to vote, prior to exercise. On exercise, a participant will receive one fully paid ordinary share in the Company for each share right exercised. The number of share rights which a participant in the Share Rights Plan will be entitled to exercise will depend on the number of share rights held by the participant and the performance of the Company relative to a designated performance hurdle. Each share right will be issued, and (if exercisable) may be exercised, at no cost to the participant. Further details of the share rights and the Share Rights Plan are described below under the heading "Key Terms of the Share Rights Plan".

Shareholder approval is required by the ASX Listing Rules and the Company's constitution, and is being sought for, the issue of up to 30,000 share rights under the Share Rights Plan to Mr Daniell, the Managing Director and Chief Executive Officer of the Company.

The Company also intends to issue, pursuant to NZSX Listing Rule 7.3.6, up to 970,000 share rights to selected executives, managers and other employees of the Company and its subsidiaries (or a person associated with them) which will be issued within 5 months of the Annual Shareholders' Meeting. Together with the options proposed to be issued under the Fisher & Paykel Healthcare 2003 Share Option Plan (see Explanatory Note 4), the Company intends to issue no more than an aggregate of 5,000,000 share rights and options to selected executives, managers and other employees, including Mr Daniell, following the Annual Shareholders' Meeting. This will equate to the issue of share rights and options to acquire shares representing approximately 0.9% of the total ordinary shares on issue.

The Board will review the operation of the Share Rights Plan from time to time and consider whether it is in the Company's interest to make further grants of share rights.

### Shareholder approval required

ASX Listing Rule 10.14 and the Company's constitution require that shareholder approval be obtained where equity securities are to be issued to a Director under an employee incentive scheme. Shareholder approval is not required for the purposes of the NZSX Listing Rules. The NZSX Listing Rules allow executive directors to participate in employee share issues where the participation is determined by criteria applying to employees generally. Mr Daniell's participation has been determined by criteria applying to employees generally under the Share Rights Plan. Mr Daniell is the only Director eligible to participate in the Share Rights Plan. There is no loan proposed in relation to the proposed issue of share rights under the Share Rights Plan to Mr Daniell.

Shareholder approval is therefore being sought to issue share rights under the Share Rights Plan to the Managing Director and Chief Executive Officer of the Company, Mr Daniell. If approved, the share rights will be issued to Mr Daniell by 22 January 2013 which is within 5 months of the Annual Shareholders' Meeting. The Company intends to issue share rights to selected executives, managers and other employees of the Company and its subsidiaries on or about the same date.

For the voting exclusions applicable to this resolution, please refer to page 3 of this Notice of Meeting.

### Key Terms of the Share Rights Plan

The key terms of the Share Rights Plan are:

- No amount is payable by a participant for the grant of share rights.
- One share right gives the participant the potential to exercise that share right for one ordinary share in the Company at no cost.
- Whether (and how many) share rights become exercisable will depend on the Company's gross total shareholder return (TSR) performance compared to the performance of the Dow Jones

US Select Medical Equipment Total Return Index (DJSMQDT) in New Zealand dollars over the same period (the Index return).

- The Company's TSR will be calculated and compared against the Index return at the end of the following performance periods:
  - from the date of the grant of the share rights (the Grant Date) to the third anniversary of that date (the First Performance Period);
  - from the Grant Date to the fourth anniversary of that date (the Second Performance Period);
  - from the Grant Date to the fifth anniversary of that date (the Final Performance Period); and
  - if a person or group of persons acting in concert acquires 50% or more of the shares on issue prior to the fifth anniversary of the Grant Date (a Change of Control), from the Grant Date to the date on which that person or group of persons acquires at least 50% of the shares on issue (the Takeover Performance Period).
- Share rights will only become exercisable if the Company's TSR over the relevant performance period exceeds the Index return over the same period, measured in absolute terms. If at the end of the relevant performance period the Company's TSR performance over that period exceeds the Index return over the same period by less than 10%, measured in absolute terms, then between 50% and 100% of the share rights held by the participant, as determined on a straight line basis by the Company, become exercisable. If the Company's TSR over that performance period exceeds the Index return over the same period by 10% or more, measured in absolute terms, then all of the share rights will become exercisable as at the end of the relevant performance period.
- At the end of the First Performance Period, the Company will advise each participant whether any of their share rights are exercisable depending on

the above methodology and if they are, the number of share rights which are exercisable. The participant may then choose to exercise any exercisable share rights (in which case any share rights which are not exercised or are not capable of exercise will lapse) or not.

- Exercisable share rights may only be exercised during the 20 business day period from the date that the participant is notified that the share rights have become exercisable following the end of the relevant performance period (the exercise period). The Board has discretion to extend an exercise period or set a new exercise period if the exercise period would otherwise fall outside of a permitted trading period under the Company's securities trading policy. If the participant chooses not to exercise any exercisable share rights (or no share rights are exercisable because the Company's TSR over the performance period has not exceeded the Index return over the same period), the process is repeated at the end of the Second Performance Period and, if necessary, at the end of the Final Performance Period. The process is also repeated if a Change of Control occurs, at the end of the Takeover Performance Period. At the end of the exercise period in respect of the Final Performance Period, any unexercised share rights and any share rights which are not capable of exercise will lapse.
- Unless otherwise determined by the Board, a participant's share rights will lapse on the first to occur of the following events:
  - the exercise of any of that participant's share rights within an exercise period;
  - 5pm on the last day of the exercise period in respect of the Final Performance Period;
  - in the case of share rights held by a participant who ceases to be employed because of serious illness, accident, permanent disablement, redundancy, death or after a person or group of persons acting in concert acquires 50% or more of the shares on issue, in each case after the third anniversary of the date of grant of

the share rights, the last date of the exercise period in respect of the next performance period following the date of which the participant ceases to be employed; and

- in the case of share rights held by a participant who ceases to be employed because of any other reason, the day on which that person ceases to be employed.
- Subject to any applicable Listing Rules, the Board is given discretion to adjust the terms of any share rights to achieve equivalent treatment as between the participants in the Share Rights Plan and the shareholders in the event of a change in the capital structure of the Company.
- The Company may amend the terms of the Share Rights Plan, subject to the consent of any adversely affected participant.
- Share rights are not transferable, other than to certain persons associated with an employee and approved by the Board, and do not participate in dividends or other distributions of the Company. Participants are not entitled to participate in new issues of the underlying securities (such as a rights issue or bonus issue) prior to exercising the share rights.
- Share rights will not be quoted on either the NZSX or the ASX markets. So long as the Company remains listed on the NZSX and/or the ASX markets it is intended that the shares issued on exercise of share rights will be quoted on the NZSX and/or the ASX markets (as applicable).
- Ordinary shares issued or transferred on the exercise of share rights will be fully paid and rank equally with all other ordinary shares in the Company except for dividends declared or payable in respect of any period prior to the issue of the relevant shares.

A Prospectus relating to the Share Rights Plan is available for review at the New Zealand Companies Office (<http://www.companies.govt.nz>).



## **EXPLANATORY NOTE 4 - FISHER & PAYKEL HEALTHCARE 2003 SHARE OPTION PLAN – ISSUE OF OPTIONS TO THE MANAGING DIRECTOR AND CHIEF EXECUTIVE OFFICER**

### **Introduction**

Shareholder approval is required by the ASX Listing Rules and the Company's constitution, and is being sought for, the grant of up to 200,000 options under the Option Plan to Michael Daniell, the Managing Director and Chief Executive Officer of the Company.

As described in Explanatory Note 3, the Board intends for the Option Plan and the Share Rights Plan to operate alongside each other.

The Board believes that the issue of a combination of options and share rights broadly in equal value proportions will provide appropriate incentive for participating employees to grow the total shareholder return of the Company. The combination of the Option Plan and the Share Rights Plan will also assist the Company to attract, motivate and retain key employees in an environment where such employees are in high demand both within New Zealand and internationally. Options and share rights will be issued to employees under the Option Plan and Share Rights Plan as a long-term component of remuneration provided to employees in accordance with the Company's remuneration policy.

The Option Plan was established by the Company in 2003 in accordance with the Option Plan rules dated 7 March 2003 and amended on 12 August 2004, 22 November 2006, 22 April 2010, 25 May 2010 and 16 July 2012. Under the latest amendment to the Option Plan, all options will vest after the third anniversary of the grant date provided that the Company's share price on the NZSX has, at any time on or after the third anniversary of the grant date, exceeded the "Escalated Price" described under the heading "Key Terms of the Option Plan" on page 17.

The Company intends to also issue, pursuant to NZSX Listing Rule 7.3.6, up to 3,800,000 options to selected executives, managers and other employees of the Company and its subsidiaries (or a person associated

with them) which will be issued within 5 months of the Annual Shareholders' Meeting. Together with the share rights proposed to be issued under the Share Rights Plan (see Explanatory Note 3), the Company intends to issue no more than an aggregate of 5,000,000 share rights and options to selected executives, managers and other employees, including Mr Daniell, following the Annual Shareholders' Meeting. This will equate to the issue of share rights and options to acquire shares representing approximately 0.9% of the total ordinary shares on issue.

The Company estimates that following this issue, the total number of shares in respect of which options and share rights will have been issued to participants in the Option Plan and the Share Rights Plan both under the issue and during the five year period preceding the date of the issue, will represent approximately 5% of the total ordinary shares on issue.

The Company's cost of capital is used as the performance benchmark in determining a participant's right to exercise options. The Board believes that the cost of capital is an appropriate performance benchmark as it rewards employees when the Company has outperformed its cost of equity and shareholders have experienced positive returns, and it achieves close alignment of employee's incentive remuneration to shareholder returns.

As with previous option plans, the Board will regularly review the operation of the Option Plan and consider whether it is in the Company's interest to make further grants of options.

### **Shareholder approval required**

ASX Listing Rule 10.14 and the Company's constitution require that shareholder approval be obtained where options and other equity securities are to be issued to a Director under an employee incentive scheme. Shareholder approval is not required for the purposes of the NZSX Listing Rules. The NZSX Listing Rules allow executive directors to participate in employee share issues where the participation is determined by criteria applying to employees generally. Mr Daniell's participation has been determined by criteria applying to employees generally under the Option Plan.

Shareholder approval is therefore being sought to issue options under the Option Plan to the Managing Director and Chief Executive Officer of the Company, Michael Daniell. If approved, the options will be issued to Mr Daniell by 22 January 2013 which is within 5 months of the Annual Shareholders' Meeting. The Company intends to issue options to selected executives, managers and other employees of the Company and its subsidiaries on or about the same date.

No Director nor any associate of a Director has received options granted under the Option Plan (or any predecessor plan) except Mr Daniell. As at 31 March 2012, Mr Daniell held 880,000 options under the Plan. 200,000 options were granted to Mr Daniell under the Option Plan on 16 September 2011, following the approval of the issue of those options at the 2011 Annual Shareholders' Meeting. Mr Daniell is the only Director eligible to participate in the Option Plan. There is no loan proposed in relation to the proposed issue of options under the Option Plan to Mr Daniell.

For the voting exclusions applicable to this resolution, please refer to page 3 of this Notice of Meeting.

### Key Terms of the Option Plan

The key terms of the Option Plan are:

- No amount is payable for the grant of options.
- One option gives the participant the right to subscribe at the exercise price for one ordinary share in the Company subject to meeting the following exercise conditions:
  - (a) The options granted under the Option Plan to a participant on a particular grant date may only be exercised at any time between the third anniversary of the grant date and the fifth anniversary of the grant date.
  - (b) The Company's share price on the NZSX has, at any time on or after the third anniversary of the grant date, exceeded the "Escalated Price" (described on the opposite page).

Unless otherwise determined by the Board:

- if the participant ceases employment with the Company due to serious illness, accident, permanent disablement, redundancy or after a person or group of persons acting in concert acquires 50% or more of the shares on issue, the participant will have one month to exercise all outstanding options;
  - in the event of the participant's death, the participant's executor will have three months to exercise all outstanding options; and
  - on termination of employment for any other reason all outstanding options held by the participant will expire.
- The exercise price of the options to be granted under the Option Plan following the Annual Shareholders' Meeting will be the volume weighted average price for a share on the NZSX for the five business days prior to the grant date for the options.
  - The Escalated Price is determined as follows:
 

As at each anniversary of the grant date up to and including the third anniversary of the grant date for an option, a "base price" will be calculated by:

    - increasing the last calculated base price (which as at the first anniversary of the grant date will be the exercise price of the option) by a percentage amount determined by the Board to represent the Company's cost of capital; and
    - reducing the resulting figure by the amount of any dividend paid by the Company in the 12 month period immediately preceding that anniversary.
  - The Escalated Price will be the base price determined as at the third anniversary of the grant date in accordance with the above.

- Subject to any applicable Listing Rules, the Board is given discretion to adjust the terms of any options (including the exercise price) to achieve equivalent treatment as between the participants in the Option Plan and the shareholders in the event of a change in the capital structure of the Company.
- The Company may amend the terms of the Option Plan, subject to the consent of any adversely affected participant.
- Options are not transferable, other than to certain persons associated with an employee, and do not participate in dividends or other distributions of the Company. Participants are not entitled to participate in new issues of the underlying securities (such as a rights issue or bonus issue) prior to exercising the options.
- Options will not be quoted on either the NZSX or the ASX markets. So long as the Company remains listed on the NZSX and/or the ASX markets it is intended that the shares issued on exercise of options will be quoted on the NZSX and/or the ASX markets (as applicable).
- Ordinary shares issued or transferred on the exercise of options will be fully paid and rank equally with all other ordinary shares in the Company except for dividends declared or payable in respect of any period prior to the issue of the relevant shares.
- The Cancellation Offer facility approved by shareholders at the 2004 Annual Shareholders' Meeting (which allows optionholders to cancel vested options in consideration for shares of a value equal to the gain that the optionholders would receive if they exercised their options) applies to the options granted under the Option Plan.
- A Prospectus relating to the Option Plan and Cancellation Facility is available for review at the New Zealand Companies Office (<http://www.companies.govt.nz>).

## EXPLANATORY NOTE 5 – NORTH AMERICAN STOCK PURCHASE PLAN

### Introduction

The Fisher & Paykel Healthcare Corporation Limited Employee Stock Purchase Plan was established by the Company on 2 November 2001 and approved by shareholders at the Company's 2002 annual meeting. Under relevant US law, securities must be issued within 10 years from the date the plan is established. As this 10 year period has expired, the Board has established the Fisher & Paykel Healthcare Corporation Limited Amended and Restated Employee Stock Purchase Plan (the Stock Plan) on 27 April 2012.

The terms of the Fisher & Paykel Healthcare Corporation Limited Employee Stock Purchase Plan have remained materially unchanged under the Stock Plan. The Stock Plan is intended to provide employees of the Company's US and Canadian subsidiaries benefits similar to those provided under the share plans established for New Zealand and Australian employees.

The Stock Plan is intended to be a qualified employee stock purchase plan under Section 423 of the US Internal Revenue Code of 1986, as amended. In order to qualify, amongst other things, the US Code of Federal Regulations 26 CFR 1.423-2(ii) states that the Stock Plan must be approved by the shareholders of the issuing company within 12 months before or after the date it is established.

Under the Stock Plan, employees of the Company's US and Canadian subsidiaries have the opportunity to purchase the Company's ordinary shares at a discount by contribution through the use of after-tax payroll deductions. The purchase price of the shares at each purchase date is the lesser of (a) 85% of the fair market value on the offer date and (b) 85% of the fair market value on the purchase date. Stock Plan participants have the same rights as any other shareholder once their shares are purchased.

The first offering period under the Stock Plan began on 1 July 2012 and will end on 30 June 2013.

As a qualifying plan, the general rule is that no taxable income will be recognised at the time the employee purchases ordinary shares pursuant to the Stock Plan for US tax purposes. If the requisite shareholder approval is not obtained, the Stock Plan will not qualify for this favourable tax treatment. If the Stock Plan does not qualify, participants must recognise as ordinary income on the date the ordinary shares are purchased, the excess of the fair market value of the shares on the purchase date over the price paid by the participants.

### **Key Terms of the Stock Plan**

The key terms of the Stock Plan are:

- It is intended that annual offers will be made under the Stock Plan to employees of the Company's US and Canadian subsidiaries, although the Company may terminate the Stock Plan at any time. The Company may determine the eligibility requirements for each offer, provided that the Company does not require that participants have been in the employment of a US or Canadian subsidiary for more than 2 years or work more than 20 hours per week or 5 months per calendar year.
  - Employees who would own, immediately after their acceptance as a participant, shares with at least 5% of the voting power of all classes of shares of the Company or a related company are not eligible to participate in the Stock Plan.
  - An employee who ceases to be employed by a participating subsidiary for any reason will make no further contributions to the Stock Plan, but any contributions already made may be applied to purchase shares under the terms of the Stock Plan within 90 days of leaving employment. If the employee leaves employment due to death, disability or retirement, this period is extended to 12 months.
- Over the 10 year term of the Stock Plan, the maximum aggregate number of shares that may be issued under the terms of the Stock Plan is 2,000,000 ordinary shares plus an annual increase equal to two percent of the ordinary shares outstanding calculated as of 27 April 2012.
  - The maximum aggregate number of shares that may be issued under the Stock Plan may be adjusted upon changes in the ordinary shares due to Company restructurings or changes in its capital structure.

[www.fphcare.com](http://www.fphcare.com)

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