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## Continuous disclosure policy

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OtherLevels Holdings Limited ACN 603 987 266

Adopted on 19 February 2015

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# Continuous disclosure policy

OtherLevels Holdings Limited ACN 603 987 266

## 1 Introduction

- (a) OtherLevels is a public company, listed on the ASX.
- (b) As an ASX listed company, OtherLevels is required to comply with the 'continuous disclosure regime' entrenched by section 674 of the *Corporations Act 2001* and by ASX Listing Rule 3.1. The continuous disclosure regime requires listed entities (such as OtherLevels) to immediately disclose information which may materially affect the price or value of the entity's securities. The continuous disclosure regime reflects the expectation of investors and the market to have ready access to that type of information. This policy reflects how OtherLevels will deal with its continuous disclosure obligations.

## 2 Definitions and interpretation

### 2.1 Definitions

In this document:

Term	Definition
<b>Adoption Date</b>	means the date this policy was adopted by the Board.
<b>ASIC</b>	means the Australian Securities and Investments Commission.
<b>ASX</b>	means ASX Limited ACN 008 624 691.
<b>ASX Listing Rules</b>	means the listing rules for the time being in force of ASX.
<b>Board</b>	means the board of Directors.
<b>Chairman</b>	means the chairman of the Board, or in the absence of the incumbent chairman, the deputy chairman.
<b>CEO</b>	means the executive officer (by whatever title known, whether chief executive officer, managing director or otherwise) with sole responsibility for the strategic and operational management of the Group.
<b>CFO</b>	means the chief financial officer or equivalent officer of the Company (by whatever title known).
<b>Company or OtherLevels</b>	means OtherLevels Holdings Limited ACN 603 987 266.
<b>Company Secretary</b>	means the company secretary of OtherLevels.
<b>Continuous Disclosure Announcement</b>	means an announcement issued by the Company for the purposes of disclosing information of the kind identified in clause 4.2 of this Policy.
<b>Corporations Act</b>	means <i>Corporations Act 2001</i> (Cth).
<b>Director</b>	means a director of the Company.

<b>Term</b>	<b>Definition</b>
<b>Disclosure Committee</b>	means the committee established under clause 5.
<b>Group</b>	means the Company and its controlled entities.
<b>Policy</b>	means the policy contained in this document or in any amending or replacement document of similar nature.
<b>Price Sensitive Information</b>	has the meaning set out in clause 3.
<b>Securities</b>	means any equity, debt or other securities of any kind issued by the Company.
<b>Staff</b>	means Directors, senior executives and employees of the Company or the Group.

## 2.2 Interpretation

Words not defined in this document which are given a meaning in the Corporations Act have the same meaning as in the Corporations Act.

## 3 Price Sensitive Information

### 3.1 Price Sensitive Information

The Board has adopted the following meaning of Price Sensitive Information:

*'Price Sensitive Information is any information concerning the Group that a reasonable person would expect to have a material effect on the price or value of Securities'.*

### 3.2 Examples of Price Sensitive Information

- (a) The types of information that are likely to constitute Price Sensitive Information in relation to the Company is information that:
  - (i) relates to the affairs of the Company or the Group;
  - (ii) may give a person proposing to deal in Securities an advantage over other persons holding or dealing in Securities; and
  - (iii) if it were generally available, would be likely to materially affect the price of the Securities in question.
- (b) Information about the Company or the Group regarding any of the following subjects which is not publicly available might also constitute Price Sensitive Information:
  - (i) transactions that will lead to a significant change in the nature or scale of the Company's activities;
  - (ii) a material acquisition or disposal;
  - (iii) the granting or withdrawal of a material licence;
  - (iv) the entry into, variation or termination of a material agreement;

- (v) becoming a plaintiff or defendant in a material law suit;
- (vi) the fact that the Company's earnings will be materially different from the market expectations;
- (vii) the appointment of a liquidator, receiver or administrator;
- (viii) the commission of an event of default under, or other event entitling a financier to terminate, a material financing facility;
- (ix) under subscriptions or over subscriptions to an issue of Securities;
- (x) giving or receiving a notice of intention to make a takeover; and
- (xi) any rating applied by a rating agency to the Company or its Securities and any change to such a rating.

## **4 Continuous Disclosure Policy**

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### **4.1 Need for this policy**

- (a) The law imposes various obligations on the Company to keep the market fully informed of Price Sensitive Information and to correct any material mistake or misinformation in the market. In the administration of this Policy, it will be for the Board (or the Disclosure Committee) to determine whether:
  - (i) information is or is likely to become Price Sensitive Information; and
  - (ii) disclosure of that information is required or an exception to disclosure applies.
- (b) This document sets out the policy and procedures adopted by the Board in order to comply with these obligations.

### **4.2 Source of obligations**

- (a) ASX Listing Rule 3.1 requires ASX listed entities to immediately disclose Price Sensitive Information to the market by notifying ASX (unless an exception applies).
- (b) ASX Listing Rule 3.1 is given legislative support by section 674 of the Corporations Act, which imposes statutory liability for its breach in certain circumstances.

### **4.3 Liability provisions**

A contravention of the continuous disclosure obligations imposed by the Corporations Act can result in civil and criminal proceedings against both the Company and any person involved in the contravention.

### **4.4 Obligation to disclose Price Sensitive Information**

The Company must immediately notify ASX of all Price Sensitive Information, unless an exception applies.

#### 4.5 Information which must be disclosed

There is also specific information which ASX has determined must be disclosed in accordance with ASX Listing Rules 3.4 to 3.21 (inclusive). No exceptions apply in relation to these matters. Examples of specific information that must be disclosed include:

- (a) certain information regarding the Company's capital, including a proposed issue of Securities, a reorganisation of capital and the establishment, deactivation, reactivation or, or amended to, a dividend reinvestment plan (ASX Listing Rule 3.10);
- (b) a change to the exercise price of an option, or the number of underlying Securities over which an option is exercisable (ASX Listing Rule 3.11);
- (c) the outcome of each resolution put to a meeting of the Company's shareholders (ASX Listing Rule 3.13);
- (d) a change to the Company's address, telephone or fax number (ASX Listing Rule 3.14);
- (e) a change to the Company's auditor (ASX Listing Rule 3.16.3);
- (f) the material terms of, and any material variation to, any employment, service or consultancy agreement with the Company's CEO, Directors, or their related parties (ASX Listing Rule 3.16.4);
- (g) information about the beneficial ownership of Securities obtained under Part 6C.2 of the Corporations Act (ASX Listing Rule 3.17.2);
- (h) information about any meetings that have been requisitioned by the Company's shareholders (ASX Listing Rule 3.17A); and
- (i) a decision to pay, or not pay, a dividend or distribution (ASX Listing Rule 3.21).

#### 4.6 Exceptions to the disclosure requirements

- (a) Disclosure under Listing Rule 3.1 is not required and does not apply to information where **each** of the following conditions is and remains satisfied in relation to the information:
  - (i) one or more of the following applies:
    - (A) it would be a breach of a law to disclose the information;
    - (B) the information concerns an incomplete proposal or negotiation;
    - (C) the information comprises matters of supposition or is insufficiently definite to warrant disclosure;
    - (D) the information is generated for the internal management purposes of the entity; or
    - (E) the information is a trade secret; **and**
  - (ii) the information is confidential and ASX has not formed the view that the information has ceased to be confidential; **and**
  - (iii) a reasonable person would not expect the information to be disclosed.

- (b) The exception operates only for as long as **all three conditions are satisfied**. If one or more of the requirements ceases to be satisfied, the exception no longer applies and the entity must disclose the information immediately in accordance with ASX Listing Rule 3.1.

#### **4.7 Meaning of confidentiality**

- (a) Information will be confidential so long as the Company has control over the use and disclosure of information. Confidentiality will not be lost if the Company gives confidential information to its advisers and financiers, or gives the information to a third party subject to a confidentiality arrangement.
- (b) ASX can form the view that confidentiality has been lost if all or part of the information becomes known with reasonable specificity, selectively, or generally, whether inadvertently or deliberately. For example, media speculation and market rumours may signal that confidentiality has been lost.
- (c) If ASX forms the view that confidentiality in respect of Price Sensitive Information has been lost, that information must be immediately disclosed.

#### **4.8 Applying the exceptions in practice**

- (a) Examples of the type of information that generally does not require disclosure (in reliance on the exceptions in ASX Listing Rule 3.1A) include:
  - (i) proposed acquisitions or disposals or other commercial arrangements in the process of negotiation;
  - (ii) internal budgets and forecasts;
  - (iii) management accounts;
  - (iv) business plans;
  - (v) internal market intelligence;
  - (vi) information prepared for lenders;
  - (vii) financing terms in the usual course; and
  - (viii) dispute settlement negotiations.
- (b) However, there may be a number of matters which are commercially sensitive, the disclosure of which would be detrimental to the Company and which may be required to be disclosed because they may not fall within the exceptions. Examples include:
  - (i) a serious claim against the Company, prior to commencement of proceedings;
  - (ii) an allegation or investigation by a regulatory body that is not being disputed by the Company;
  - (iii) information about a 'complete' proposal;
  - (iv) the terms of settlement of a dispute which the parties wish to keep confidential and which are not supported by a court order of confidentiality; and



- (v) material terms of a trading agreement with a major supplier or customer.
- (c) Whether information of this type falls within one of the exceptions will depend on the facts.

#### **4.9 Premature release of information to the public**

- (a) OtherLevels must not publicly disclose Price Sensitive Information until it has given that information to ASX and has received an acknowledgment from ASX that the information has been released to the market.
- (b) In order to ensure that Price Sensitive Information is kept confidential until OtherLevels has received an acknowledgment from ASX under clause 4.9(a), OtherLevels should:
  - (i) establish internal systems that set out the standards of behaviour and procedure for handling Price Sensitive Information;
  - (ii) maintain a register of both internal and external people who are insiders on transactions that involve Price Sensitive Information;
  - (iii) provide training programs to employees on how to handle Price Sensitive Information; and
  - (iv) enter into confidentiality agreements before passing on Price Sensitive Information.

#### **4.10 False market**

- (a) If ASX considers that there is or is likely to be a false market in Securities and asks the Company to give it information to correct or prevent a false market, the Company must give ASX the information needed to correct or prevent the false market.
- (b) The obligation to give information requested by ASX to correct a false market applies regardless of whether the exception in Listing Rule 3.1A otherwise applied in respect of that information.
- (c) An example of a circumstance where ASX would be likely to consider a false market exists include where:
- (d) the Company has information that has not been released to the market because it is relying on Listing Rule 3.1A;
  - (i) there is a reasonably rumour or media comment in relation to the Company that has not been confirmed, denied or clarified by the Company; and
  - (ii) there is evidence that the rumour or comment is having, or ASX forms the view that it is likely to have, an impact on the price of the Company's securities.
- (e) In order to ensure that there is at all times a fair and balanced market in OtherLevels' shares and other securities, OtherLevels should:
  - (i) release to the market information required to correct a false market, whether or not a request has been received from ASX;

- (ii) provide the market with balanced and factual commentary on OtherLevels' financial results to ensure that OtherLevels' investors are able to make an informed assessment of OtherLevels' activities and results; and
- (iii) where appropriate, request a trading halt from ASX, in accordance with clause 6.2, to prevent trading in the Company's securities by an inefficient and uninformed market until the Company can make an announcement to the market.

#### **4.11 Requirement to disclose immediately**

- (a) ASX has given guidance that the obligation to disclose Price Sensitive Information 'immediately' does not mean that the information has to be disclosed instantaneously. In the context of continuous disclosure it means acting '*promptly and without delay*'.
- (b) Acting promptly and without delay means attending to something as quickly as it can be done in the circumstances and not deferring, postponing or putting it off until a later time.
- (c) Accordingly, if the obligation to disclose is triggered overnight or on the weekend (or other time when the market is closed), it is generally sufficient for the Company to provide the information for release before trading resumes. However, the relevant information should be brought to the attention of the CEO or Company Secretary as soon as possible.
- (d) The Company must act particularly quickly to correct a false market in accordance with clause 4.10, if there is a sudden and significant movement in the price or volume of trading, or if the information is especially damaging and likely to cause a significant fall in the Company's share price.

## **5 Disclosure Committee**

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- (a) The Board has established a committee which is primarily responsible for the Company's continuous disclosure obligations and administering this Policy (**Disclosure Committee**).
- (b) The Disclosure Committee is comprised of the following executives (or other members as the Board determines appropriate from time to time):
  - (i) the CEO;
  - (ii) a non-executive director; and
  - (iii) the Company Secretary.
- (c) The responsibilities of the Disclosure Committee include:
  - (i) communicating with ASX;
  - (ii) monitoring the Company's compliance with its continuous disclosure obligations;
  - (iii) ensuring adequate processes and controls are in place for the identification, reporting and disclosure of Price Sensitive Information in a timely manner;

- (iv) ensuring that Staff are educated on the Policy and the internal reporting processes and controls;
  - (v) making recommendations to the Board about this Policy; and
  - (vi) where requested to do so, reviewing media announcements proposed to be made by the Company (irrespective of whether they contain Price Sensitive Information) and making recommendations (if any) as to content.
- (d) The Disclosure Committee must meet as frequently as required to discharge its responsibilities under this Policy, and may make any rules and regulations for the conduct of its meetings as it thinks fit.
- (e) The members of the Disclosure Committee may nominate alternates with authority to act in their place in the event that they are otherwise unable to act. In particular, in circumstances where it is likely that one or more members of the Disclosure Committee are likely to be absent or otherwise unable to act, appropriate alternative arrangements should be put in place.

## 6 Disclosure and reporting

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### 6.1 Reporting relevant information

- (a) When any of the Directors, executive officers or other Staff members become aware of information which they believe may need to be disclosed, they should immediately advise full details to a member of the Disclosure Committee.
- (b) The Disclosure Committee will then meet and take the following steps:
  - (i) review the information and assess whether it is Price Sensitive Information and whether disclosure is required or an exception applies;
  - (ii) prepare a draft Continuous Disclosure Announcement;
  - (iii) inform and consult with the Board in relation to the Price Sensitive Information and draft Continuous Disclosure Announcement, as appropriate; and
  - (iv) where reasonably possible, obtain the approval for the Continuous Disclosure Announcement from the Board and then release the same.
- (c) In relation the procedure outlined in clause 6.1(b) at least two members of the Disclosure Committee must be consulted and review any information that may be Price Sensitive Information and require a Continuous Disclosure Announcement to be released.
- (d) It shall be at the responsibility of the Disclosure Committee to ensure that the potential making of a Continuous Disclosure Announcement is brought to the attention of other Directors, to enable receipt of their comments (if any) before a Continuous Disclosure Announcement is issued.
- (e) It should be noted, however, that the obligation to notify ASX of Price Sensitive Information is an obligation to **notify immediately**, and therefore Disclosure Committee may not be able to wait for a Board meeting before making a Continuous Disclosure Announcement. If this is the case, the Continuous Disclosure Announcement must have been reviewed and approved by no less than two members of the Disclosure Committee.

## 6.2 Trading halts and voluntary suspensions

- (a) The Company recognises that in certain circumstances it may be appropriate for the Company to request a trading halt from ASX. This may include instances where:
  - (i) confidential information about the Company has inadvertently made been public and has created a false market or is particularly damaging to the Company (or both), and further time is required to enable the Company to prepare an appropriate announcement; or
  - (ii) the Company is preparing to make a major announcement and is concerned to prevent speculative or insider trading.
- (b) If such a circumstance arises only the CEO or Company Secretary, acting in consultation with the Chairman, can authorise a request for a trading halt.
- (c) The Company will prepare and utilise trading halt request templates in order to ensure that a trading halt can be obtained from ASX as soon as possible, if required.
- (d) If the Company does not expect to be able to make an announcement regarding the relevant Price Sensitive Information within the usual two trading days permitted for the trading halt, the Company will also consider whether a voluntary suspension on the trading of Securities is more appropriate.

## 6.3 Standing agenda item at Board and senior management meetings

- (a) Continuous disclosure must be a standing agenda item at Board meetings.
- (b) Prior to each Board meeting, the Company Secretary must contact each executive officer, and any other appropriate person to confirm that there is no information requiring disclosure.

## 6.4 Guidance for officers considering whether information should be disclosed

- (a) Directors, executive officers and other Staff should consider the following questions in determining whether information should be disclosed:

*'Would this information influence my decision to buy or sell Securities at their current market price?'*

*'Would I feel exposed to an action for insider trading if I were to buy or sell Securities at their current market price, knowing this information had not been disclosed to the market?'*

- (b) In most cases, whether information must be disclosed will be self evident on a simple application of the basic criteria: 'Is it price sensitive? If so, do any of the exceptions apply?' However, there will be instances where it is unclear whether the information needs to be disclosed. In these cases, it may be helpful to assess the information by reference to the flowchart set out in the Annexure.

## 6.5 Broader notification of continuous disclosure notices

The Disclosure Committee shall ensure that internal procedures are adopted so that each Continuous Disclosure Announcement issued by the Company is immediately displayed on the Company's website.

## **7 Media**

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- (a) OtherLevels must not provide information to the media that contains material or Price Sensitive Information until OtherLevels has given the information to ASX and received an acknowledgment that ASX has released it to the market.
- (b) Where the Board considers it appropriate, the media may be invited to participate in OtherLevels's presentations to investors and analysts.
- (c) Press releases should be honest, fair and consistent with the terms of this policy.

## **8 Analyst briefing, reports and financial matters**

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### **8.1 One-on-one and group briefings**

- (a) One-on-one and group briefings between the Company and investors or analysts must be restricted to discussion of previously disclosed information.
- (b) A member of the Disclosure Committee should be present at all one-on-one and group briefings to ensure that no undisclosed Price Sensitive Information is discussed.
- (c) Where it is not possible for a member of the Disclosure Committee to attend a one-on-one group briefing:
  - (i) a member of the Disclosure Committee must be fully briefed immediately after that briefing to determine whether any Price Sensitive Information may have been inadvertently disclosed; and
  - (ii) where any Director, executive officer or other Staff member of the Company who participated at that briefing considers that a matter was raised that might constitute a previously undisclosed price-sensitive matter, they must immediately refer that matter to a member of the Disclosure Committee.
- (d) If a member of the Disclosure Committee considers that Price Sensitive Information was inadvertently disclosed at a briefing, the Company must immediately release that information to ASX.
- (e) Information provided to analysts and investors during a one-on-one or group briefing (such as PowerPoint slides) must be provided to ASX for release to the market and posted on the Company's website as soon as practical.

### **8.2 Procedure for dealing with analyst, shareholder and investor queries**

- (a) In responding to analyst, shareholder and investor queries, an authorised spokesperson must:
  - (i) only discuss information that has been publically released;
  - (ii) ensure all responses are balanced, factual and truthful; and
  - (iii) confine comments on market analyst's financial projections to errors in factual information or underlying assumptions.

- (b) Where an analyst, shareholder or investor query can only be answered by disclosing Price Sensitive Information, an authorised spokesperson must decline to answer that query. The authorised spokesperson should then refer the query to a member of the Disclosure Committee so a formal decision can be made as to whether or not it is appropriate for the Company to disclose information relevant to that query.

### **8.3 Analyst reports and forecasts**

- (a) If the Company resolves to comment on a report prepared by an analyst, the Company's comments must be restricted to information that the Company has publically disclosed or information that is in the public domain.
- (b) The Company must not comment on analysts forecasts regarding earnings projections for the Company except:
  - (i) where the forecast differs significantly from the Company's published earnings projections (if relevant); or
  - (ii) to correct any factual errors relating to publicly issued information and company statements.
- (c) Where the Company becomes aware that the market's earning projections on the Company differ significantly from the Company's published earnings projections or own earning estimates, the Company should issue a profit warning or company statement, if considered necessary by the CEO, to avoid a false market. Any such release should be approved by the Board prior to release.

### **8.4 Market speculation**

- (a) The Company should not comment on market speculation and rumour unless:
  - (i) the relevant material is reasonably accurate and reasonably specific to a matter involving the Company;
  - (ii) there are factual errors contained in the speculation or rumour that could materially affect the Company;
  - (iii) there is a move in the price of Securities which is reasonably referable (in the opinion of the Disclosure Committee) to the speculation or rumour; or
  - (iv) the Company receives a formal request from ASX or a regulator (e.g. requiring the correction of a false market).
- (b) Any comments made by the Company in response to market speculation and rumour must be authorised by the Disclosure Committee and must be limited to correcting factual error.

### **8.5 Finance Arrangements**

- (a) Where the Company has in place or enters into new material financing arrangements or alters existing material financing arrangements which include terms that may be activated upon the occurrence of certain events (particularly those beyond the control of the Company, such as market events), disclosure may be required under ASX Listing Rule 3.1 at the time that any such term is activated or becomes likely to be activated.

- (b) The disclosure required may include the nature and terms of the arrangements, the trigger event and any other material information such as any impact that triggering of the term may have on the Company's relationship with its bankers. It may also be appropriate in some circumstances for the Company to request a trading halt if the Company is unable to immediately release the information.

#### **8.6 Margin loans by directors**

- (a) Directors must comply with the Company's securities trading policy before entering into a margin loan or similar arrangements concerning the Company's circumstances.
- (b) Where a Director has entered into margin loan or similar funding arrangements involving a material number of securities in the Company, ASX Listing Rule 3.1 may, in certain circumstances, operate to require the Company to disclose the key terms of the arrangements, including the number of securities involved, the trigger points, the right of the lender to sell unilaterally and any other material details.
- (c) Whether a margin loan arrangement is material under ASX Listing Rule 3.1 is a matter which the Company must decide having regard to the nature of its operations and the particular circumstances of the Company.

# Annexure

## Continuous disclosure flowchart (clause 6.4(b))

