

# NOTICE OF ANNUAL SHAREHOLDERS MEETING

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## 2021

**Dear Shareholder,**

We would be very pleased if you would attend Seeka Limited's 2021 Annual Shareholders Meeting on **Friday, 16 April 2021 commencing at 2:30pm**, either **at the meeting venue at Seeka360**, 34 Young Road, Paengaroa 3189, New Zealand, **or online at [www.virtualmeeting.co.nz/sek21](http://www.virtualmeeting.co.nz/sek21)**.

If it is impracticable or not permitted to hold a physical meeting due to Government restrictions on gatherings, the meeting will proceed online and you will only be able to attend via the virtual meeting portal [www.virtualmeeting.co.nz/sek21](http://www.virtualmeeting.co.nz/sek21).

Any cancellation of the physical meeting will be posted on Seeka's website [www.seeka.co.nz/investors](http://www.seeka.co.nz/investors), announced to the NZX and where possible shareholders will be notified by email.

In case you can't attend, please remember to complete and submit the enclosed Proxy Form so that it reaches our share registrar, Link Market Services Limited, by 2:30pm on Wednesday, 14 April 2021.

For shareholders attending the Annual Meeting at Seeka360, please bring the enclosed Proxy Form to assist with your registration.

# NOTICE OF ANNUAL SHAREHOLDERS MEETING 2021

**NOTICE** is hereby given that the Annual Meeting of Shareholders of Seeka Limited ("Seeka") will commence at 2:30pm on Friday, 16 April 2021. Shareholders can attend the physical meeting at Seeka360, 34 Young Road, Paengaroa, or attend online at [www.virtualmeeting.co.nz/sek21](http://www.virtualmeeting.co.nz/sek21).

If it is impracticable or not permitted to hold a physical meeting due to Government restrictions on gatherings, the meeting will proceed online and you will only be able to attend via the virtual meeting portal [www.virtualmeeting.co.nz/sek21](http://www.virtualmeeting.co.nz/sek21).

## Ordinary business

The business of the Meeting is:

### A: Annual Report and Accounts

*"To receive the Annual Report of Seeka and the Financial Statements for the year ended 31 December 2020 together with the Auditor's Report thereon."*

### B: Resolutions

#### 1. Director election – Peter Ratahi Cross

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

*"To re-elect Peter Ratahi Cross as a Director."*

**The explanatory note to this ordinary resolution, including a profile for the candidate standing for election, is on page 3.**

#### 2. Director election – Ashley Waugh

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

*"To re-elect Ashley Waugh as a Director."*

**The explanatory note to this ordinary resolution, including a profile for the candidate standing for election, is on page 3.**

#### 3. Directors' Remuneration

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

*"That the pool of funds available for the remuneration of directors be increased by an amount of \$80,000 per annum, from a maximum of \$450,000 per annum to a maximum of \$530,000 in each financial year payable to all directors taken together, effective 1 January 2021."*

**The explanatory note to this resolution is on page 4.**

#### 4. Appointment and Remuneration of Auditors

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

*"To record the re-appointment of PwC (PricewaterhouseCoopers) as auditor of the Company, and to authorise the Directors to fix the remuneration and expenses of the auditor for the coming year."*

**The explanatory note to this resolution is on page 5.**

#### 5. Approval of Issue of new Ordinary Shares in relation to acquisition of OPAC by Amalgamation

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

*"That Seeka issue up to 7,042,574 new fully paid ordinary shares of Seeka, at the issue price, and for the consideration, described in the explanatory note pursuant to the Amalgamation Proposal described in the explanatory note and accompanying the Notice of Meeting."*

**The explanatory note to this resolution is on page 5.**

## C: General business

To consider any other matter that may be properly brought before the Meeting.

## Voting and proxies

The persons who will be entitled to vote at the Meeting are those persons who are registered on Seeka's share register as holding fully paid ordinary shares in Seeka on Wednesday, 14 April 2021 at 5:00pm. The Chair advises that, pursuant to Seeka's constitution, he will call for voting on all resolutions to be by way of a poll, meaning that each Shareholder has one vote for each share held.

All the Resolutions are ordinary resolutions and must be passed by a simple majority of the votes of those Shareholders entitled to vote and voting on the Resolutions.

Every Shareholder, or that Shareholder's proxy or representative, is entitled to attend the Meeting, either at the venue (subject to the limitations noted earlier) or online, and vote.

Any Shareholder entitled to attend and vote at the Meeting may appoint a proxy to attend and vote on that Shareholder's behalf. The proxy need not be a Shareholder. You may appoint the Chair of the Meeting as your proxy. If you appoint the Chair of the Meeting as your proxy and do not direct the Chair how to vote in the proxy form, the Chair will vote discretionary proxies in favour of Resolutions 1, 2, 4 and 5.

In accordance with NZX Listing Rule 6.3.1, any director and any person who is an Associated Person (as that term is defined in the NZX Listing Rules) of a director may not vote on Resolution 3. If you appoint any such person as your proxy, including the Chair, that person will only be able to vote on Resolution 3 in accordance with your express instructions, as set out in your proxy form.

A corporation that is a Shareholder may appoint a person as its representative to attend the meeting and vote on its behalf, in the same manner as that in which it could appoint a proxy.

A proxy form accompanies this Notice of Meeting. If you are unable to attend the Meeting in person or online, please complete the Proxy Form and return it in the reply-paid envelope provided to (Link Market Services, PO Box 91976, Victoria Street West, Auckland 1142) or fax to 09 375 5990 or scan and email to [meetings@linkmarketservices.co.nz](mailto:meetings@linkmarketservices.co.nz) (please put the words "Seeka Proxy Form" in the subject line for easy identification) to arrive no later than 2:30pm on Wednesday, 14 April 2021.

Alternatively, you may lodge your proxy online. Go to <https://investorcentre.linkmarketservices.co.nz/voting/SEK>.

Initial information including your CSN / Holder number and FIN (authorisation code) will be required to successfully validate your holding online before shareholding information and voting pages are displayed.

A Shareholder will be taken to have signed the Proxy Form by lodging it in accordance with the instructions on the website.

The appointment of a proxy or representative does not preclude a Shareholder from attending and voting at the Meeting.

## Independence of Directors

The Board has considered whether the directors seeking re-election (Peter Ratahi Cross and Ashley Waugh) qualify as independent directors under the NZX Listing Rules (the "Rules"), and Seeka's Board Charter.

Under the Rules, the Board must determine and identify whether the directors seeking re-election qualify as independent directors. In making its determination, the Board has had regard to the non-exhaustive factors described in recommendation 2.4 of the NZX Corporate Governance Code (see [www.nzx.com/regulation/nzx-rules-guidance/corporate-governance-code](http://www.nzx.com/regulation/nzx-rules-guidance/corporate-governance-code)).

In addition, under Seeka's Board Charter, a director is deemed to be non-independent if he or she:

- is, or is associated (directly or indirectly) with, a shareholder holding 5% or more of the shares on issue in the Company and is as a result likely to derive a substantial portion of his or her income from that relationship; or
- is an executive of the Company.

For the purposes of the Rules and Seeka's Board Charter, in the Board's view:

- if Peter Ratahi Cross is re-elected as a director, he will not qualify as an independent director;
- if Ashley Waugh is re-elected as a director, he will qualify as an independent director.

The re-election of the above Directors is consistent with the Board's policy of Director Tenure as set out in the Board Charter.

## Forward-looking statements

This Notice of Meeting and the explanatory notes contain certain statements that relate to the future. Such statements are not a guarantee of future performance and involve known and unknown risks, uncertainties, assumptions and other important factors, many of which are beyond the control of the Company and which may cause actual results, performance or achievements of the Company to differ materially from those expressed or implied by such statements.

## NZ RegCo Non-Objection

NZ RegCo has reviewed this Notice of Meeting and the explanatory notes under Listing Rule 7.1 and confirmed it has no objection to this Notice of Meeting or the explanatory notes.

### By order of the Board

**S T McKinstry**

Secretary

30 March 2021

# EXPLANATORY NOTES

## RESOLUTIONS 1 AND 2: ELECTION OF DIRECTORS

In accordance with clause 23.1(i) of Seeka's Constitution, Peter Ratahi Cross and Ashley Waugh retire by rotation and, being eligible, offer themselves for re-election. Profiles of each candidate standing for re-election are set out below.

The Board supports and recommends that Shareholders vote in favour of the election of Peter Ratahi Cross and Ashley Waugh.

No other nominations were received.



### CANDIDATE PROFILE

#### Peter Ratahi (Ratahi) Cross

Non-executive Director

Member Remuneration Committee

Appointed 1 March 2016

Ratahi is the chairman of several trust boards throughout the eastern areas of the North Island. He chairs Te Awanui Huka Pak Limited and Ngai Tukairangi Trust, the largest Māori kiwifruit grower in New Zealand. The trust operates orchards on the Matapihi Peninsula at Mount Maunganui, and in the Hawke's Bay, which supply Seeka.

Ratahi has a background in natural science specialising in native flora and fauna. He also lectures in Māori history for several tribes he belongs to.



### CANDIDATE PROFILE

#### Ashley Waugh

BBS

Independent, non-executive Director

Chair Audit and Risk Committee

Appointed 21 May 2014

Ashley has experience in the fresh food industry having worked within the Australasian Fast Moving Consumer Goods (FMCG) markets for more than 30 years. He also has global experience in the FMCG, foodservice and ingredients markets.

Ashley was the chief executive officer of Australian dairy foods and juice giant National Foods until its merger with Lion Nathan in 2009. His prior business experience was with the New Zealand Dairy Board and Ford Motor Company.

He currently serves on the board of Colonial Motor Company and has governance experience in both New Zealand and Australia. Ashley has extensive agribusiness experience and, along with his wife, owns a dairy farm near Te Awamutu in the Waikato.

## RESOLUTION 3: DIRECTORS' REMUNERATION

In March 2020, prior to the onset of the Covid-19 pandemic, Seeka issued a notice of meeting for its 2020 Annual Shareholder Meeting. That Notice of Meeting included a resolution to increase Directors' remuneration. Following the onset of the Covid-19 pandemic, Seeka withdrew the first 2020 Notice of Meeting and issued a new Notice of Meeting for an online meeting. Having reflected on the economic circumstances at the time, the Seeka Board elected not to include a resolution to increase Directors' remuneration in the second Notice of Meeting for the 2020 Annual Shareholders Meeting as Seeka focussed on continuity of operations following the advent of Covid-19. That same resolution is now being included in this Notice of Meeting.

New Zealand director fees are normally based on the key factors that define a business, including financial size, international reach, industry segment, ownership structure, organisational performance and Board performance.

Seeka directors are remunerated by fixed fees drawn from the annual pool of director fees as approved by shareholders. Each director's fee is then set according to expected time commitments and responsibilities as determined by the Board. Seeka directors receive no equity-based remuneration, and receive no performance or retirement benefits.

Seeka's director remuneration policy is to set the annual pool available for director fees at a mid-range point, relative to the market, rather than using the top-end range, with the Chair using professional advice and market information to review director remuneration within a two-year period. Approval from shareholders to increase director remuneration was last sought April 2018 when the pool limit was set at a maximum of \$450,000 per annum.

No pro-rata fee increase has been made between annual shareholder meetings for director appointments as permitted by the company's constitution.

Seeka engaged Strategic Pay Limited to review Seeka's director remuneration in January 2020. Strategic Pay is an independent remuneration consultancy that undertakes annual director fees surveys, and used the key metrics of market capitalisation, revenue, assets, and market sector (agribusiness), to benchmark Seeka within their database of listed public companies and more than 200 New Zealand private sector businesses.

To see Strategic Pay's full report visit [www.seeka.co.nz/Annualshareholdermeeting2021](http://www.seeka.co.nz/Annualshareholdermeeting2021).

The Board considered Strategic Pay's recommendations, and took into account Seeka's performance, growth in complexity, scale of operations, regulatory risks and obligations, and recommends that the pool available to pay director fees be increased by \$80,000 from a maximum of \$450,000 per annum to a maximum of \$530,000 per annum.

If approved, the Board proposes to allocate the pool as detailed in the following table, effective from 1 January 2021.

	Number	Current pool	2021 proposal	Increase
<b>Annual pool of director fees</b>		\$ 450,000	\$ 530,000	17.8%
<b>Individual allocations as determined by the Board</b>				
Chair	1	\$ 100,000	\$ 125,000 <sup>1</sup>	25.0%
Chair Audit and Risk Committee	1	\$ 67,500	\$ 77,500	14.8%
Directors - Non Executive	5	\$ 56,500	\$ 62,500	10.6%
New Director - Succession Planning		-	\$ 15,000	
<b>Total allocation</b>	<b>7</b>	<b>\$ 450,000</b>	<b>\$ 530,000</b>	<b>17.8%</b>

As part of the Board's succession planning, the proposed pool has a \$15,000 provisional fee for the Board to appoint a new director prior to the 2022 annual shareholder meeting. If the Board makes an appointment, at the 2022 annual shareholder meeting the new director would stand for election, and if successful a sitting director would retire with the number of directors reverting to seven, as provided for under Seeka's constitution.

1. Consistent with Strategic Pay's advice that New Zealand chair fees are typically twice the base director fee.

## Background information

The following table summarises medium benchmarking data provided by Strategic Pay from their survey of director and chair fees.

Strategic Pay key metrics	Seeka FY19	Survey range	Survey sample	Director fees	Chair fees
Market capitalisation	\$ 148m	\$ 75m - \$ 225m	14	\$ 70,000	\$ 125,000
Revenue	\$ 237m	\$ 190m - \$ 290m	13	\$ 80,000	\$ 145,000
Assets	\$ 368m	\$ 300m - \$ 500m	13	\$ 63,560	\$ 117,000
Industry	Agribusiness	N/A	8	\$ 50,000	\$ 102,500
Private sector companies		N/A	200	\$ 60,460	-
Seeka Board proposal April 2021				\$ 62,500	\$ 125,000

The following table summarises the growth in Seeka's business over the two-year period from April 2018 when director remuneration was last reviewed, to January 2020 when Strategic Pay reviewed director fees and made their recommendation. It also summarises growth to include the 2020 financial year.

Seeka key business metrics	FY17 \$'000s	FY19 \$'000s	Increase on FY17	FY20 \$'000s	Increase on FY17
Market capitalisation - 31 December	\$ 102,675	\$ 147,733	43.9%	\$ 156,627	52.5%
Revenue	\$ 186,814	\$ 236,868	26.8%	\$ 251,457	34.6%
Total assets <sup>2</sup>	\$ 249,598	\$ 368,246	47.5%	\$ 375,426	50.4%

2. NZ IFRS16 Leases was implemented FY19, with the FY17 total assets value restated as if the standard had always applied. Excluding the right-of-use lease assets, total assets at 31 December 2019 would be \$323m, an increase of 45.6% on FY17 total assets of \$222m before restatement of IFRS 16.

## RESOLUTION 4: APPOINTMENT AND REMUNERATION OF AUDITORS

PricewaterhouseCoopers is automatically reappointed as auditor of the Company under section 207T of the Companies Act 1993. This Resolution authorises the Board to fix the fees and expenses of PricewaterhouseCoopers as the Company's auditor for the coming financial year ending 31 December 2021.

## RESOLUTION 5: ISSUE OF NEW SEEKA SHARES IN RELATION TO ACQUISITION OF OPAC BY AMALGAMATION

### Acquisition of OPAC

On 25 March 2021 Seeka announced the entry into of an Amalgamation Implementation Agreement with Opotiki Packing and Cool Storage Limited ("OPAC") the leading regional integrated kiwifruit business in the Eastern Bay of Plenty. In accordance with this agreement, Seeka intends to acquire the business of OPAC through the amalgamation of OPAC with a wholly owned subsidiary of Seeka, Seeka Eastern Star Limited ("Seeka Sub"), under Part XIII of the Companies Act 1993 ("Amalgamation") if all conditions to the Amalgamation (as set out in the Amalgamation Proposal attached as the Appendix to this Notice of Meeting) are satisfied or where possible waived. If the Amalgamation proceeds, Seeka Sub will continue as the amalgamated (surviving) company.

The acquisition of OPAC is strategically important to the Company and consistent with Seeka's strategic goal to grow our foundation kiwifruit business. The acquisition increases Seeka's market share by approximately 5%<sup>1</sup> and adds fruit supply from new geographic regions in the Eastern Bay of Plenty kiwifruit growing region to Seeka's operations, an area where the Company is already experiencing growth through new orchard developments. Once fully integrated, the combined Company will have the capability to grow and handle fruit in all of New Zealand's major kiwifruit growing regions.

The transaction is expected to be accretive to shareholders once the combined business is fully integrated. Seeka expects to generate material efficiencies, synergy benefits and cost savings for the benefit of all stakeholders as a result of this acquisition, including, but not limited to, benefits in logistics and supply chain, structure and resourcing, packaging, electricity, back office and governance aspects of the combined business. There is potential for the OPAC business to be further supported, optimised and benefit from the scale and operational capabilities of Seeka. In addition, OPAC has a network of orchard managers growing fruit and optimising orchard production that will complement Seeka's own orcharding business. Further details about OPAC and the OPAC business can be found on OPAC's website at [www.opac.co.nz](http://www.opac.co.nz).

OPAC's facilities having recently undergone major coolstore and machinery upgrades. The plant is modern and in good condition.

Once the business is fully amalgamated and integrated the Board is confident that Seeka will experience earnings growth.

The acquisition price values the net assets of OPAC at \$33.94m, assuming all OPAC shareholders vote in favour of the Amalgamation, based on an enterprise value of OPAC of \$59 million, less net bank debt obligations of approximately \$25.06m. The acquisition price is intended to be settled by issuing the OPAC shareholders with 1.4833 Seeka shares for each OPAC Share held by them. It is possible that some OPAC shareholders will be paid \$6.02 per OPAC Share in cash if they vote against the Amalgamation and exercise their "minority buyout rights" under the Companies Act 1993. Seeka and OPAC intend for OPAC to purchase any such OPAC Shares prior to the effective date of the Amalgamation, however if an OPAC shareholder has exercised its minority buyout rights but remains on the register as at 5:00 p.m. on 3 May 2021, then, subject to section 112A of the Companies Act, Seeka will pay those OPAC Shareholders \$6.02 per OPAC Share held as consideration for the cancellation of their OPAC Shares instead of issuing Seeka Shares to such OPAC Shareholders. Seeka expects to have sufficient available funds to provide for any payments to be made by Seeka.

## Terms of the Amalgamation

The Amalgamation Implementation Agreement sets out the full terms and conditions of the Amalgamation. The Amalgamation Proposal included in the Appendix to this Notice of Meeting ("**Amalgamation Proposal**"), summarises certain key terms and conditions of the Amalgamation, including the condition that Seeka shareholders approve, by ordinary resolution, the issue of new ordinary shares in Seeka to existing shareholders of OPAC ("**OPAC Shareholders**") as consideration for the cancellation of all the shares in OPAC ("**OPAC Shares**"). Seeka and OPAC have agreed to interim period covenants and termination rights that are customary for transactions of this nature.

Resolution 5 authorises the issue of up to 7,042,574 new ordinary shares in Seeka to OPAC Shareholders under the Amalgamation. If the resolution is passed and all conditions in the Amalgamation Implementation Agreement, as set out in the Amalgamation Proposal (including the approval of the Amalgamation Proposal by OPAC Shareholders) are satisfied or where possible waived:

- the Amalgamation will proceed;
- Seeka will issue up to 7,042,574 new Seeka Shares on or about 4 May 2021 (the effective date for the Amalgamation ("**Effective Date**")) to OPAC Shareholders recorded in the OPAC share register as at 3 May 2021 (the "**Record Date**") in accordance with the terms of the Amalgamation Proposal as summarised in the below table;
- all OPAC Shares will be cancelled;
- Seeka Sub will amalgamate with and acquire the OPAC business; and
- OPAC shareholders will become shareholders of Seeka (other than any who exercise their minority buyout rights under the Companies Act 1993).

The Amalgamation itself does not require the approval of Seeka shareholders; however, if Resolution 5 is not passed, the Amalgamation will not proceed, Seeka Sub will not amalgamate with or acquire the business of OPAC and no new Seeka Shares will be issued.

Resolution 5 is an ordinary resolution required by NZX Listing Rule 4.1 and must be passed by a simple majority of the votes of those Shareholders entitled to vote and voting on the Resolution. The issue of new Seeka Shares will be made in reliance on the exclusion in clause 19 of Schedule 1 to the Financial Markets Conduct Act 2013.

1. Calculated by reference to Seeka's and OPAC's estimated combined post-harvest packing volume compared to the estimated industry volume and historic market share analysis based on 2019 harvest data showing Seeka's market share at approximately 20% and OPAC's market share at approximately 5%.

## Summary of the Key Terms of the share issue

### Number of new Seeka Shares to be issued

Up to 7,042,574 new Seeka Shares, representing approximately 21.75% of the total number of shares currently on issue (after the issue of Seeka Shares under the application of the Company's dividend reinvestment plan to the dividend paid on 30 March 2021). If all 7,042,574 new Seeka Shares are issued, there will be 39,430,166 total Seeka Shares on issue on the Effective Date.

The total number of Seeka Shares to be issued:

- to each OPAC Shareholder is 1.4833 Seeka Shares for each OPAC Share held by an OPAC Shareholder, with all fractions of Seeka Shares to be rounded up to the nearest whole number; and
- will be determined by whether any OPAC Shareholders exercise their minority buyout rights under the Companies Act 1993 after voting against the Amalgamation. Those OPAC Shareholders would be paid cash for their OPAC Shares in accordance with the Companies Act 1993, with the intention that they are paid \$6.02 for each OPAC Share held by them, being the net assets per OPAC Share of OPAC and its related companies as shown in the audited financial statements of OPAC and its related companies for the financial year ended 31 December 2020.

Seeka expects to have sufficient available funds to provide for any payments to be made by Seeka.

If all 7,042,574 new Seeka Shares are issued, the holdings of existing Seeka shareholders (other than OPAC Shareholders who receive Seeka Shares that are also Seeka Shareholders) could be diluted by up to 17.86%. Please consult your professional adviser for further information on how the proposed issue affects your specific shareholding in Seeka.

### Purpose of Resolution 5 and the Amalgamation

The purpose of Resolution 5 is to authorise the issue of new Seeka Shares to OPAC Shareholders as consideration for the cancellation of those OPAC Shareholders' OPAC Shares under the Amalgamation so that the Amalgamation can occur.

The purpose of the Amalgamation is for Seeka Sub to amalgamate with and acquire the business of OPAC.

### Issue Price and consideration for the issue

The issue price for each new Seeka Share is \$4.82 per new Seeka Share, being the volume weighted average price of Seeka Shares traded on the NZX Main Board over the 10 business days ended 24 March 2021.

The issue price for the new Seeka Shares is to be satisfied by each OPAC Shareholder by way of cancellation of that OPAC Shareholder's OPAC Shares on the basis of 1.4833 Seeka Shares for each OPAC Share cancelled, with all fractions of Seeka Shares to be rounded up to the nearest whole number.

### Are recipients of the new Seeka Shares Directors of Seeka or Associated Persons of Seeka or a Director of Seeka?

No recipient of new Seeka Shares is a Director of Seeka or an Associated Person (as that term is defined in the NZX Listing Rules) of Seeka or a Director of Seeka.

### When will Seeka Shares be issued

If the conditions set out in the Amalgamation Proposal (included in the Appendix to this Notice of Meeting) are satisfied or where possible waived, the new Seeka Shares will be issued on the Effective Date.

### Terms of Shares

The Seeka Shares will be fully paid ordinary shares in Seeka which will have all of the rights (including voting and dividend rights) of, and rank equally in all respects with, the existing fully paid ordinary shares in Seeka.

Seeka will take any necessary steps to ensure that the new Seeka Shares are, immediately after the issue, quoted.

# APPENDIX – AMALGAMATION PROPOSAL

## AMALGAMATION PROPOSAL

This document describes the terms of a proposal under Part XIII of the Companies Act 1993 ("**Act**") to amalgamate Opotiki Packing and Cool Storage Limited ("**OPAC**") and Seeka Eastern Star Limited ("**Seeka Sub**") (a wholly-owned subsidiary of Seeka Limited ("**Seeka**")), with Seeka Sub as the amalgamated (surviving) company in the amalgamation ("**Amalgamation**").

This document contains the details required by section 220(1) of the Act, and is expected to be filed with the New Zealand Companies Office, together with the other documents required to give effect to the Amalgamation under section 223 of the Act.

1. **Name:** The name of the amalgamated company will be Seeka Eastern Star Limited (the "**Amalgamated Company**").
2. **Registered Office:** The registered office of the Amalgamated Company is 34 Young Road, Paengaroa, Te Puke 3189.
3. **Directors:** Details of the directors of the Amalgamated Company after the Amalgamation will be:

Director's Full Name	Director's Residential Address
Michael Gilbert Franks	62 Sixth Avenue, Tauranga 3110
Stuart Thomas McKinstry	23a Rita Street, Mount Maunganui 3116

4. **Address for service:** The Amalgamated Company's address for service is 34 Young Road, Paengaroa, Te Puke 3189.
5. **Final share structure:** Upon Amalgamation, the Amalgamated Company will be a wholly-owned subsidiary of Seeka with 100 ordinary shares, and those shares will have the rights, privileges, limitations and conditions set out in section 36 of the Act.
6. **Ultimate holding company:**
  - (a) There is no ultimate holding company of OPAC.
  - (b) The ultimate holding Company of Seeka Sub is Seeka.
  - (c) Upon Amalgamation, the ultimate holding company of the Amalgamated Company will be Seeka.
7. **No conversion:** Upon Amalgamation, all of the shares in OPAC will be cancelled and will not be converted into shares in the Amalgamated Company. The consideration given to OPAC shareholders for cancellation of their shares in OPAC is described in paragraph 8 below.

8. **Consideration for cancellation of OPAC shares:** As consideration for the cancellation of OPAC's shares:

- (a) Upon the Amalgamation becoming effective in accordance with the Act each OPAC Share will be cancelled and Seeka will:
  - (i) issue to each person who was registered on OPAC's share register as a OPAC Shareholder on the Record Date that has not given OPAC written notice under section 111 of the Act requiring OPAC to repurchase their OPAC Shares after the passing of a special resolution to approve the Amalgamation, 1.4833 Seeka Shares for each OPAC Share held by the applicable OPAC Shareholder on the Record Date; or
  - (ii) subject to the provisions of section 112A of the Act, pay to each person who was registered on OPAC's share register as a OPAC Shareholder on the Record Date that has given OPAC written notice under section 111 of the Act requiring OPAC to repurchase their OPAC Shares after the passing of a special resolution to approve the Amalgamation, \$6.02 for each OPAC Share held by the applicable OPAC Shareholder on the Record Date, being the net assets per OPAC Share of OPAC and its Related Companies as shown in the audited financial statements of OPAC and its Related Companies for the financial year ended 31 December 2020.
- (b) All fractions of a Seeka Shares will be rounded up to the next whole number of Seeka Shares.
- (c) For the avoidance of doubt, the maximum number of Seeka Shares to be issued by Seeka to the OPAC Shareholders in consideration for the cancellation of their respective OPAC Shares pursuant to the Amalgamation shall not exceed 7,042,574 Seeka Shares, provided that such maximum number shall decrease proportionately with any reduction in the number of OPAC Shares on issue.
- (d) Seeka will take any necessary steps to ensure that the Seeka Shares are, immediately after the issue, quoted.
9. **Basis of issue:** The Seeka Shares issued on Amalgamation to holders of OPAC Shares will:
  - (a) be issued pursuant to clause 19 of Schedule 1 to the Financial Markets Conduct Act 2013, the Financial Markets Conduct Regulations 2014, and all applicable laws; and
  - (b) on issue, be on the same terms, and shall rank equally with, all other ordinary shares on issue in Seeka; and
  - (c) be quoted on the NZX under ticker code SEK.

**10. Other payments:** Other than as set out above, or except in accordance with sections 110 to 113 of the Act, the Amalgamation does not involve the making of any payment to a shareholder or director of either OPAC or Seeka Sub.

**11. Arrangements to complete Amalgamation:** The arrangements necessary to complete the Amalgamation and to provide for the subsequent management and operation of the Amalgamated Company are as follows:

- (a) The boards of directors of Seeka Sub and OPAC will consider, and if thought fit pass, the resolutions required under section 221(1) of the Act and the directors who vote in favour of those resolutions will give the certificates required under section 221(2) of the Act.
- (b) The boards of directors of OPAC and Seeka Sub have, at the date of this Amalgamation Proposal, given notice of the proposed Amalgamation to the secured creditors of OPAC and Seeka Sub, and public notice of the proposed Amalgamation in accordance with section 221(4) of the Act.
- (c) OPAC Shareholders will be asked to approve the Amalgamation Proposal by Special Resolution, including a special resolution of each interest group, in accordance with section 221(5) of the Act, at a meeting scheduled to take place on 13 April 2021.
- (d) Seeka, as shareholder of Seeka Sub, will be asked to approve the Amalgamation by a Special Resolution in writing.
- (e) Seeka shareholders will be asked to approve the issue of new Seeka Shares under the Amalgamation by ordinary resolution in accordance with NZX Listing Rule 4.1, at a meeting scheduled to take place on 16 April 2021.
- (f) If the necessary special resolutions of OPAC are passed then, after the expiry of the period of 20 working days from the date when public notice of the Amalgamation has been given and the Amalgamation Proposal has been sent to secured creditors, and provided that, the Conditions have been satisfied or waived, a copy of the Amalgamation Proposal, will be delivered to the Registrar of Companies together with the necessary directors' certificates of OPAC, and the other documents referred to in section 223 of the Act. Following receipt of those documents, the Registrar of Companies will issue a certificate of amalgamation in accordance with section 224 of the Act.
- (g) The Amalgamation is conditional on the conditions set out in Appendix A either being satisfied or waived, by no later than 5:00 p.m. on 3 May 2021 (or such earlier date specified in the Appendix) in accordance with the Amalgamation Implementation Agreement between Seeka and OPAC dated 25 March 2021.

**12. Subsequent Management and Operations:** Following the Amalgamation becoming effective:

- (a) Seeka Sub currently intends to operate its business on substantially the same basis as OPAC was operated prior to the Amalgamation;
- (b) the Amalgamated Company will satisfy OPAC's obligations under the OPAC Supply Commitments.

**13. Amalgamation Date:** The Amalgamation is intended to take effect at 12:01 a.m. on 4 May 2021. Accordingly the Amalgamation Date will be 4 May 2021 or, if the date the documents required to be filed with the Registrar of Companies under section 223 of the Act is a later date, the date the Registrar of Companies receives and registers those documents.

**14. Glossary:** In this document unless the context otherwise requires:

"Act" means the Companies Act 1993.

"Amalgamation" means the amalgamation of OPAC and Seeka Sub under Part XIII of the Act, in which Seeka Sub will be the amalgamated (surviving) company.

"Conditions" means the conditions to the Amalgamation set out in Appendix A.

"Major Growers" means each grower estimated by OPAC (in consultation with Seeka) to be supplying more than 75,000 trays of kiwifruit to OPAC in the 2021 season.

"Material Adverse Change" means, in respect of a Company, a matter relating to that Company and its Related Companies, taken as a whole, that occurs after the date of this Agreement, and which:

(a) causes or is likely to cause an adverse change of:

- (i) more than 10% of EBITDA of that Company and its related Companies in FY21, by comparison to EBITDA of that Company and its related Companies as set out in the financial statements for FY20; or
- (ii) more than 5% of the value of the Gross Tangible Assets of that Company and its Related Companies, when compared to the value of the Gross Tangible Assets of that Company and its Related Companies as set out in the balance sheet for FY20; or

(b) is the entry into a COVID-19 Alert Level that results in a lockdown that materially hinders the operation of OPAC or Seeka as a business; or

(c) is the appointment of a liquidator, administrator or receiver (or any similar person to any of the foregoing) of that Company or over the whole or a substantial part of the property or assets of that Company; or

(d) is the entry by that Company into a compromise or arrangement with any of its creditors; or

- (e) the calling of a meeting to consider a resolution to liquidate that Company (other than where that resolution is frivolous or cannot reasonably be considered to be likely to lead to the actual winding up of that Company), or the making of an application or order for the liquidation or dissolution of that Company which order has not been set aside within ten (10) Working Days; or
- (f) is that Company ceasing or threatening to cease to carry on business; or
- (g) results in that Company being or becoming unable to pay its debts when they fall due in the ordinary course of business; or
- (h) is the appointment of a statutory manager to that Company under the Corporations (Investigation and Management) Act 1989, or that Company is declared at risk under that legislation; or
- (i) in respect of Seeka, a change in the price of Seeka Shares quoted on the NZX Main Board between the period commencing on the date of this Agreement and ending on the day before the Effective Date of more than 15% from a price of \$4.82.

"OPAC" means Opotiki Packing and Cool Storage Limited.

"OPAC Share" means any share in OPAC.

"OPAC Shareholder" means the holder of a OPAC Share on the Record Date.

"Record Date" means 5:00 p.m. on 3 May 2021.

"Related Company" has the meaning given to that term in the Act.

"Seeka" means Seeka Limited.

"Seeka Share" means an ordinary share in Seeka ranking equally with all other ordinary shares in Seeka.

"Seeka Sub" means Seeka Eastern Star Limited, which is a wholly owned subsidiary of Seeka.

"Seeka Supply Commitment Agreement" means a commitment to supply Seeka (or Seeka Sub) in respect of each of the 2022 and 2023 supply seasons.

## 15. United Kingdom Securities Law

- (a) Neither this Amalgamation Proposal nor any other document relating to the Amalgamation has been delivered for approval to the Financial Conduct Authority in the United Kingdom and no prospectus (within the meaning of section 85 of the Financial Services and Markets Act 2000, as amended ("FSMA")) has been published or is intended to be published in respect of the Seeka Shares.

- (b) This Amalgamation Proposal does not constitute an offer of transferable securities to the public within the meaning of the UK Prospectus Regulation or the FSMA. Accordingly, this Amalgamation Proposal does not constitute a prospectus for the purposes of the UK Prospectus Regulation or the FSMA.
- (c) Any invitation or inducement to engage in investment activity (within the meaning of section 21 FSMA) received in connection with the issue or sale of the Seeka Shares has only been communicated or caused to be communicated and will only be communicated or caused to be communicated in the United Kingdom in circumstances in which section 21(1) FSMA does not apply to OPAC.
- (d) In the United Kingdom, this Amalgamation Proposal is being distributed only to, and is directed at, persons (i) who fall within Article 43 (members of certain bodies corporate) of the Financial Services and Markets Act 2000 (Financial Promotions) Order 2005, or (ii) to whom it may otherwise be lawfully communicated (together "**relevant persons**"). The investments to which this document relates are available only to, and any invitation, offer or agreement to purchase will be engaged in only with, relevant persons. Any person who is not a relevant person should not act or rely on this Amalgamation Proposal.

## APPENDIX A

### Conditions

1. All necessary shareholder approvals (including any requisite approvals of interest groups) being obtained from the OPAC Shareholders by 13 April 2021, including a special resolution of OPAC Shareholders required pursuant to section 221(5) and section 106(1)(c) of the Act.
2. All necessary shareholder approvals being obtained from the shareholders of Seeka by 16 April 2021, comprising an ordinary resolution of shareholders in Seeka required pursuant to Rule 4.1 of the Listing Rules.
3. Seeka receiving Seeka Supply Commitment Agreements signed by OPAC growers before the Effective Date, such that:
  - (a) Major Growers supplying at least 80% of the total kiwifruit volume (calculated by tray) from all Major Growers (such volume as estimated by OPAC in consultation with Seeka); and
  - (b) in aggregate OPAC growers supplying at least 80% of the total estimated kiwifruit volume by tray,
 have committed to supply Seeka (or Seeka Sub) in the 2022 and 2023 supply seasons.
4. Immediately prior to the Effective Date, the absence of a Court order being made under section 226 of the Act directing that the Amalgamation is modified or not given effect to.
5. Seeka finalising documentation with Westpac Banking Corporation and Westpac New Zealand Limited in relation to the funding of Seeka Sub from the Effective Date to repay all of OPAC's indebtedness to ASB Bank Limited, Cooperative Rabobank U.A and Rabobank New Zealand Limited, and the conditions to such documentation being satisfied or waived by the Effective Date.
6. OPAC not having received valid written notices from shareholders who together hold a number of OPAC Shares that exceeds five per cent (5%) of the aggregate number of OPAC Shares on issue as at 25 March 2021 under section 111 of the Act after the passing of a special resolution to approve the Amalgamation but prior to the latest date provided for in section 111 of the Act, requiring OPAC to repurchase their shares.
7. All Permits being obtained that are required to enable Seeka Sub to have the full use and benefit of OPAC's business following Amalgamation by the Effective Date.
8. Immediately prior to the Effective Date, the absence of a Material Adverse Change having occurred.