

## Disclosure of beginning to have substantial holding

*Section 276, Financial Markets Conduct Act 2013*

**To** NZX Limited (**NZX**) (announce@nzx.com)

and

**To** Comvita Limited (**Comvita**)

Date this disclosure made: 17 August 2025

Date on which substantial holding began: 17 August 2025

### **Substantial product holder(s) giving disclosure**

Full name(s): Florenz Limited (**Florenz**), Dame Adrienne Stewart and Mark Stewart

### **Summary of substantial holding**

Class of quoted voting products: Ordinary shares in Comvita (**CVT Shares**) (ISIN: NZCVTE0001S7, NZX Code: CVT)

Summary for **Florenz, Dame Adrienne Stewart and Mark Stewart**

For **this** disclosure,—

- (a) total number held in class: 12,961,472
- (b) total in class: 70,492,156
- (c) total percentage held in class: 18.387%

### **Details of relevant interests**

Details for **Florenz, Dame Adrienne Stewart and Mark Stewart**

Nature of relevant interest(s): Conditional power to control the exercise of voting rights attached to CVT Shares and conditional power to control the disposal of CVT Shares pursuant to the Voting Agreements (as defined below). Copies of the Voting Agreements are attached to this notice as Appendix 1 (28 pages).

For that relevant interest(s), —

- (a) number held in class: 12,961,472
- (b) percentage held in class: 18.387%
- (c) current registered holder(s): the Accepting Shareholders (as defined below)
- (d) registered holder(s) once transfers are registered: not applicable

For derivative relevant interest, also—

- (a) type of derivative: not applicable

- (b) details of derivative: not applicable
- (c) parties to the derivative: not applicable
- (d) if the substantial product holder is not a party to the derivative, the nature of the relevant interest in the derivative: not applicable

### **Details of transactions and events giving rise to substantial holding**

Details of the transactions or other events requiring disclosure:

On 17 August 2025, Comvita and Florenz entered into a scheme implementation agreement (the **SIA**) under which Comvita has agreed, subject to satisfaction of certain conditions, to propose a scheme of arrangement under part 15 of the Companies Act 1993 in respect of the acquisition by Florenz of all of the shares in Comvita at a price of NZ\$0.80 per share in cash (the **Scheme**).

Immediately following entry into the SIA, on 17 August 2025, Florenz entered into voting agreements with each of Li Wang and China Resources Enterprises Limited (**Accepting Shareholders**) (the **Voting Agreements**). Copies of the Voting Agreements are attached to this notice as Appendix 1.

Under the Voting Agreements, each of the Accepting Shareholders have agreed, subject to various terms, that if the Scheme is proposed, they will vote in favour of the Scheme at the relevant scheme meeting.

Entry into the Voting Agreements by Florenz has resulted in Florenz obtaining a relevant interest in the CVT Shares held by each of the Accepting Shareholders.

### **Additional information**

Address(es) of substantial products holder(s):

Florenz Limited, Dame Adrienne Stewart and Mark Stewart

Unit 2, 21 Leslie Hills Drive,  
Riccarton, Christchurch, 8011,  
New Zealand

Contact details:

Michael Pritchard, +64 9 921 6073, [michael.pritchard@maynewetherell.com](mailto:michael.pritchard@maynewetherell.com)

Callum Bailey, +64 9 921 6007, [callum.bailey@maynewetherell.com](mailto:callum.bailey@maynewetherell.com)

Nature of connection between substantial product holders:

Dame Adrienne Stewart and Mark Stewart are trustees of the Ellen Trust and Masthead Trust (**Masthead Trusts**). The Masthead Trusts together either control Masthead Limited (the ultimate parent company of Florenz) or otherwise have a relevant interest in the shares of Comvita in which Florenz has a relevant interest pursuant to an amended and restated joint venture agreement dated 19 January 2021 (attached to this notice as Appendix 2 (19 pages))

**(Joint Venture Agreement).** The Joint Venture Agreement constitutes the Masthead Joint Venture and sets out the terms and conditions that apply to the Masthead Joint Venture.

Name of any other person believed to have given, or believed to be required to give, a disclosure under the Financial Markets Conduct Act 2013 in relation to the financial products to which this disclosure relates:

- (a) Li Wang; and
- (b) China Resources Enterprises Limited.

**Certification**

I, Michael Pritchard, certify that, to the best of my knowledge and belief, the information contained in this disclosure is correct and that I am duly authorised to make this disclosure by all persons for whom it is made.

## Appendix 1 – Voting Agreements

# **Voting Agreement**

**relating to the scheme of arrangement in respect of  
Comvita Limited**

Dated 17 AUGUST 2025

**Mayne  
Wetherell**

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## Parties

**Li Wang**, of No. 3038, Luosha Road, Liantang, Luohu District, Shenzhen, Guangdong, China  
(Shareholder)

**Florenz Limited**, a New Zealand incorporated company (company number 8241853) (**Bidder**)

## Background

1. The Bidder entered into a scheme implementation agreement (**SIA**) with Comvita Limited (**Company**) on or before the date of this agreement under which the Bidder and Company agreed to implement a scheme of arrangement under Part 15 of the Companies Act 1993 involving the acquisition by the Bidder of all of the shares in Company (**Scheme**).
2. As at the date of this agreement, the Shareholder holds or controls 8,552,736 ordinary shares in the Company (being approximately 12.13% of the total Shares).
3. This agreement sets out the terms and conditions on which the Shareholder has agreed to vote in favour of the Scheme.

## Agreed terms

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### 1. Interpretation

- 1.1 **Definitions:** In this agreement, unless the context otherwise requires:

**Associate** has the meaning given in Rule 4 of the Takeovers Code.

**Business Day** means a day (other than a Saturday, Sunday or public holiday) on which banks are generally open in Auckland, New Zealand.

**Companies Act** means the Companies Act 1993.

**Company Shareholder** means each person who is registered as the holder of a Share from time to time.

**Competing Proposal** has the meaning given to it in the SIA.

**Consideration** means the price per Share payable in cash on the Implementation Date, being no less than NZ\$0.80 per Share.

**Control** means, in relation to a person (**relevant person**) and one or more other persons, where those one or more persons, directly or indirectly, whether by the legal or beneficial ownership of shares, securities or other equity, the possession of voting power, by contract, trust, or otherwise:

- (a) has the power to appoint or remove the majority of the members of the governing body of the relevant person;
- (b) controls or has the power to control the affairs or policies of the relevant person; or
- (c) is in a position to derive more than 50% of the economic benefit of the existence or activities of the relevant person.

**Court** means the High Court of New Zealand.

**Effective** has the meaning given to it in the SIA.

**Exemption Notice** means the Takeovers Code (Voting Agreements for Schemes of Arrangement) Exemption Notice 2020.

**Implementation Date** has the same meaning as given to that term in the SIA.

**NZX** means NZX Limited and, where the context requires, the main board financial product market that it operates.

**Related Party** means, in relation to a person, any person who directly or indirectly Controls the Shareholder, is under the Control of the Shareholder, or is under the common control of the Shareholder.

**Representative** means in relation to a person any director, officer, employee or agent of, and any accountant, auditor, financier, financial adviser, legal adviser, technical adviser or other expert adviser or consultant to, that person.

**Scheme** has the meaning given to it in paragraph A of the Background.

**Scheme Meeting** means any meeting of Company Shareholders for the purposes of section 236A(2)(a) of the Companies Act ordered by the Court to be convened under section 236(2)(b) of the Companies Act (and includes any adjourned meeting).

**Scheme Plan** has the meaning given to that term in the SIA.

**Share** means a fully paid ordinary share in the Company.

**SIA** has the meaning given to it in paragraph A of the Background.

**Specified Shares** means:

- (a) the 8,552,736 Shares held or controlled by the Shareholder as at the date of this agreement; and



- (b) in relation to clauses 2 and 4.2 only, also includes:
  - (i) Voting Rights in respect of Shares and any rights relating to the exercise of any voting power acquired under any swap, derivative arrangement, synthetic transaction or other contractual right or interest, in each case held or controlled on or after the date of this agreement; and
  - (ii) any other Shares which the Shareholder acquires or gains control over after the date of this agreement.

**Takeovers Code** means the Takeovers Code set out in the schedule to the Takeovers Regulations 2000.

**Voting Rights** has the meaning given in Rule 3 of the Takeovers Code.

**1.2 Interpretation:** In this agreement, unless the context otherwise requires or as specifically otherwise stated:

- (a) references to dates and times are to dates and times in New Zealand;
- (b) references to currency are to New Zealand currency;
- (c) headings are for convenience only and do not affect interpretation;
- (d) a reference to a statute or other law is a reference to a New Zealand statute or other law and includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (e) a reference to “including” means “including but not limited to” and “include” and “includes” have corresponding meanings;
- (f) a reference to any instrument or document includes any variation or replacement of it; and
- (g) no term of this agreement will be construed adversely to a party solely on the ground that the party was responsible for the preparation of this agreement or a provision of it.

## **2. Voting**

**2.1 Voting:** The Shareholder agrees that if the Scheme is proposed by the Company to Company Shareholders, then it will vote, or will procure that the chairman of the Company is appointed as proxy in respect of the Specified Shares and that the chairman is directed to vote, or will otherwise procure the vote of, all of the Specified Shares in favour of the resolution to be put to the Company Shareholders at the Scheme Meeting to approve or otherwise facilitate the Scheme, unless at the time the Scheme Meeting is held:

- (a) the Consideration is below the valuation range specified by the independent adviser appointed by the Company; or
- (b) the majority of independent directors of the Target recommend that the Target shareholders vote against the Scheme.

### **3. No disposals**

**3.1 No disposals:** The Shareholder agrees that, prior to the termination of this agreement, it will not, and will procure that each of its Related Parties and Representatives does not:

- (a) dispose of, or agree to dispose of, or encumber any of the Specified Shares (or any interest in them), other than to the Bidder under the Scheme or any alternative transaction promoted by the Bidder (or a related party of the Bidder) under the SIA;
- (b) dispose of, agree to dispose of or otherwise part with ownership, control or any Voting Rights in respect of Specified Shares; or
- (c) except as required by clause 2, fetter its right to vote any of the Specified Shares.

### **4. Warranties and acknowledgements**

**4.1 Mutual warranties:** Each party warrants to the other that:

- (a) it has the legal right, authority and full power to enter into this agreement and to perform its obligations under it;
- (b) it has taken all necessary corporate and other action to authorise the execution, delivery and performance of this agreement; and
- (c) this agreement constitutes valid and binding obligations enforceable against it in accordance with its terms.

**4.2 Shareholder warranties:** The Shareholder warrants to the Bidder that:

- (a) as at the date of this agreement, it holds 8,552,736 Shares;
- (b) it controls and has the right to exercise, or control the exercise of, the votes in relation to all of the Specified Shares;
- (c) it controls the disposal of all of the Specified Shares;
- (d) as at the date of this agreement, the only Voting Rights that it holds or controls in the Company are those in respect of the 8,552,736 Shares that it holds or controls; and

- (e) that it is able to assess the risks and implications of entering into this agreement and has had an opportunity to obtain independent legal advice in relation to this agreement.

**4.3 Acknowledgements:** The parties acknowledge that:

- (a) this agreement has been concluded on commercial, arm's length terms;
- (b) the Bidder and Shareholder are not acting jointly or in concert and nothing in this agreement is intended to make them Associates;
- (c) other than as set out in this agreement, there are no ongoing covenants between the Bidder and Shareholder; and
- (d) the legal relationship between the Bidder and Shareholder contemplated by this agreement will cease on the implementation of the Scheme or termination of the SIA.

**4.4 Substantial product holder notice:** The Bidder acknowledges that, as soon as practicable after both parties sign this agreement, it must provide a substantial product holder notice to NZX disclosing that it has a relevant interest in the Specified Shares as a result of this agreement.

## **5. Compliance with exemption notice**

**5.1 Exemption Notice:** The parties acknowledge and agree that:

- (a) the Bidder does not, under this agreement, become the controller of the Voting Rights attaching to the Specified Shares in any way other than in respect of the voting commitment contained in clause 2 of this agreement;
- (b) the voting commitment under this agreement relates to the scheme of arrangement that is proposed under the SIA;
- (c) the Bidder is required to, as soon as is reasonably practicable but, in any event, within one working day after this agreement is entered into, provide certain information about this agreement to the Takeovers Panel and the Company; and
- (d) if the Bidder becomes aware that any information sent under clause 5.1(c) has changed, the Bidder is required to, as soon as is reasonably practicable but, in any event, within one working day after becoming aware of the change, send notice of the change to the Takeovers Panel and the Company.

## **6. Bidder undertaking**

**6.1 Bidder undertaking:** The Bidder confirms to the Shareholder that, at the time of the entry into this agreement by all parties, the SIA and Scheme Plan contemplate that in respect of the 8,552,736 Shares held or controlled by the Shareholder as at the date of this agreement, and

any other Shares which the Shareholder acquires or gains control over after this agreement is entered into, the Shareholder will, subject to the implementation of the Scheme, receive the Consideration. The Bidder also confirms that if a higher consideration per Share is offered by the Bidder in the future under the Scheme, the Shareholder will receive it in respect of the Shares referred to above.

- 6.2 **Reliance by Shareholder:** The Bidder acknowledges and agrees that the Shareholder is entering into this agreement in reliance upon the Bidder's undertaking in clause 6.1.

## **7. Restriction on communications**

- 7.1 **No shop restriction:** The Shareholder must not, and must procure that each of its Related Parties and, when acting on its behalf (and not in any other capacity), its Representatives does not, prior to termination of this agreement, directly or indirectly:

- (a) solicit, invite, encourage, initiate or otherwise seek to procure any Competing Proposal or any other offer, proposal, expression of interest, enquiry, negotiation or discussion with any third party in relation to, or for the purpose of, or that may reasonably be expected to encourage or lead to, a Competing Proposal; or
- (b) assist, encourage, procure or induce any person to do any of the things referred to in clause 7.1(a) on its behalf.

- 7.2 **No talk restriction:** The Shareholder must not, and must procure that each of its Related Parties and, when acting on its behalf (and not in any other capacity), its Representatives does not, prior to termination of this agreement, directly or indirectly:

- (a) enter into, permit, continue or participate in, negotiations or discussions with any third party in relation to a Competing Proposal or for the purpose of or that may reasonably be expected to encourage or lead to a Competing Proposal; or
- (b) assist, encourage, procure or induce any person to do any of the things referred to in clause 7.2(a) on its behalf.

- 7.3 **Non-disparagement:** The Shareholder must not, and must use reasonable endeavours to procure that each of its Related Parties does not, prior to termination of this agreement, take any action or make any statement to any third party or to the general public that is disparaging or reflects negatively on the Company, the Bidder, their respective Associates or the Scheme. For the purposes of this clause 7.3, a "statement" includes both oral and written statements in all mediums (including statements published on the internet).

- 7.4 **Competing proposals:** For the avoidance of doubt, nothing in this clause 7 limits, alters, or otherwise affects the Company's ability to deal with a Competing Proposal in accordance with clause 13 of the SIA.

## **8. Termination**

**8.1 Automatic termination:** This agreement will automatically terminate on the earlier of:

- (a) the date on which the resolution to approve the Scheme is declared by the Company as having been passed at the Scheme Meeting by the requisite thresholds ordered by the Court under orders applicable to the Scheme Meeting; and
- (b) the date on which the SIA is terminated in accordance with its terms, with effect from the time of such termination.

**8.2 Termination by Bidder:** If required (in the reasonable opinion of the Bidder) in order for the Scheme to become Effective, the Bidder may terminate this agreement at any time by written notice to the Shareholder.

**8.3 Shareholder termination:** Subject to clause 8.5, the Shareholder may terminate this agreement by written notice to the Bidder if:

- (a) the SIA or the Scheme Plan in the form attached to the SIA is amended or varied; or
- (b) any rights or obligations under the SIA or the Scheme Plan in the form attached to the SIA are waived by the Bidder,

and the result of such amendment, variation or waiver:

- (c) is to reduce the Consideration;
- (d) is to change the form of the Consideration payable to Shareholders;
- (e) is to defer payment of all or part of the Consideration to Shareholders to a date which is after the Implementation Date;
- (f) is to impose additional conditionality on the Scheme which materially adversely affects the benefit of the Scheme for the Shareholders as a whole; or
- (g) otherwise materially adversely affects the benefit of the Scheme for the Shareholders as a whole,

where the Shareholder's prior written consent (acting reasonably) has not been obtained to such amendment, variation or waiver.

**8.4 Effect of termination:** If this agreement is terminated under clauses 8.1, 8.2 or 8.3:

- (a) except for this clause 8.4, this agreement has no further force and effect; and
- (b) the parties will otherwise be released from their obligations under this agreement and no party will have any claim against any other party arising under or in connection with such termination, except in respect of any breach occurring before termination.

8.5 **Notice:** The Shareholder may not exercise its right to terminate this agreement under clause 8.3 unless:

- (a) where the matter giving rise to the entitlement to terminate is capable of being remedied or cured, the Shareholder has first given the Bidder 48 hours' prior written notice of their intention to terminate and the Bidder has not remedied or cured the matter within that 48 hour period; or
- (b) the matter giving rise to the entitlement to terminate is not capable of being remedied or cured.

## **9. General**

9.1 **Notices:**

- (a) Each notice or other communication under this agreement is to be made in writing and sent electronically to the addressee at the email address, and marked for the attention of the person or office holder, from time to time designated for the purpose by the addressee to the other parties. The initial email address and relevant person or office holder of each party is set out in clause 9.1(c) of this agreement.
- (b) No notice or other communication is to be effective until received. A communication will, however, be deemed to be received by the addressee on the Business Day on which the email was despatched or, if despatched after 5.00 p.m. (in the place of receipt) on a Business Day, on the next Business Day (in the place of receipt) after the date of despatch provided in each case the computer system used to transmit the communication:
  - (i) has received an acknowledgement of receipt to the email address of the person transmitting the communication; or
  - (ii) has not generated a record that the communication has failed to be transmitted.
- (c) The initial address details of each party are as set out below:
  - (i) the Shareholder at:  
  
**Email:** gp@sgwglobal.com.cn  
  
**Attention:** Guangping Zhu
  - (ii) the Bidder at:  
  
**Email:** mark.stewart@masthead.co.nz  
  
**Attention:** Mark Stewart

With a copy (which does not constitute notice) to:

**Email:** Michael.Pritchard@MayneWetherell.com /  
Callum.Bailey@maynewetherell.com

**Attention:** Michael Pritchard / Callum Bailey

- 9.2 **Compliance with applicable laws:** Nothing in this agreement requires any party to do any act, matter or thing in contravention of the Takeovers Code (except as permitted by the Exemption Notice), the Exemption Notice or the conditions attaching thereto, the Commerce Act 1986, the Financial Markets Conduct Act 2013 or the Companies Act.
- 9.3 **Variation and waiver:**
- (a) This agreement may only be varied in writing signed by the parties.
  - (b) No waiver of any breach, or failure to enforce any provision, of this agreement at any time by the Bidder or the Shareholder will in any way affect, limit or waive that party's right thereafter to enforce and compel strict compliance with the provisions of this agreement.
- 9.4 **No assignment:** No party will, directly or indirectly, assign, transfer or otherwise dispose of any rights or interests of that party in, or obligations or liabilities under, this agreement without the written consent of the other.
- 9.5 **Costs:** The parties will each bear their own costs and expenses incurred in connection with the preparation, negotiation and implementation of this agreement and any documentation pertaining hereto.
- 9.6 **Specific performance:** Each party is entitled to seek specific performance, injunctive relief, or such other equitable relief, which remedies shall be without prejudice to any other rights and remedies available to such party under applicable law or under this agreement, as a remedy for a breach or threatened breach of this agreement by any other party.
- 9.7 **Severability:** If any part of this agreement is held by any court or administrative body of competent jurisdiction to be illegal, void or unenforceable, such determination will not impair the enforceability of the remaining parts of this agreement, which will remain in full force, and such provision will be deemed to be modified to the extent necessary to render it legal, valid and enforceable.
- 9.8 **Entire agreement:** This agreement constitutes the entire agreement and understanding (express and implied) between the parties relating to the subject matter of this agreement and supersedes and cancels all previous agreements and understandings between the parties relating thereto, whether written or oral.
- 9.9 **Counterparts:** This agreement may be executed in two or more counterparts (including electronic copies), each of which is deemed an original and all of which together constitute one and the same agreement. This agreement will be effective upon the exchange by electronic means of executed counterparts. The parties consent to the use of DocuSign or

other method of electronic signature as a method to execute this agreement or any document or notice relating to this agreement.

- 9.10 **Governing law:** This agreement shall be governed by, and construed in accordance with, New Zealand law, and the parties submit to the non-exclusive jurisdiction of the New Zealand courts.
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Execution Page

Bidder

Signed by **FLORENZ LIMITED** by:

DocuSigned by:  
*Mark Stewart*  
4847A3657E124B0  
\_\_\_\_\_  
Signature of director  
  
Mark Stewart  
\_\_\_\_\_  
Name of director

Shareholder

Signed by LI WANG:

  
\_\_\_\_\_  
Signature

Li Wang  
\_\_\_\_\_  
Name

# **Voting Agreement**

**relating to the scheme of arrangement in respect of  
Comvita Limited**

Dated 17 AUGUST 2025

**Mayne  
Wetherell**

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## Parties

**China Resources Enterprises Limited**, a Hong Kong incorporated company (company number 65068910) (**Shareholder**)

**Florenz Limited**, a New Zealand incorporated company (company number 8241853) (**Bidder**)

## Background

1. The Bidder entered into a scheme implementation agreement (**SIA**) with Comvita Limited (**Company**) on or before the date of this agreement under which the Bidder and Company agreed to implement a scheme of arrangement under Part 15 of the Companies Act 1993 involving the acquisition by the Bidder of all of the shares in Company (**Scheme**).
2. As at the date of this agreement, the Shareholder holds or controls 4,408,736 ordinary shares in the Company (being approximately 6.25% of the total Shares).
3. This agreement sets out the terms and conditions on which the Shareholder has agreed to vote in favour of the Scheme.

## Agreed terms

---

### 1. Interpretation

- 1.1 **Definitions:** In this agreement, unless the context otherwise requires:

**Associate** has the meaning given in Rule 4 of the Takeovers Code.

**Business Day** means a day (other than a Saturday, Sunday or public holiday) on which banks are generally open in Auckland, New Zealand.

**Companies Act** means the Companies Act 1993.

**Company Shareholder** means each person who is registered as the holder of a Share from time to time.

**Competing Proposal** has the meaning given to it in the SIA.

**Consideration** means the price per Share payable in cash on the Implementation Date, being no less than NZ\$0.80 per Share.

**Control** means, in relation to a person (**relevant person**) and one or more other persons, where those one or more persons, directly or indirectly, whether by the legal or beneficial ownership of shares, securities or other equity, the possession of voting power, by contract, trust, or otherwise:

- (a) has the power to appoint or remove the majority of the members of the governing body of the relevant person;
- (b) controls or has the power to control the affairs or policies of the relevant person; or
- (c) is in a position to derive more than 50% of the economic benefit of the existence or activities of the relevant person.

**Court** means the High Court of New Zealand.

**Effective** has the meaning given to it in the SIA.

**Exemption Notice** means the Takeovers Code (Voting Agreements for Schemes of Arrangement) Exemption Notice 2020.

**Implementation Date** has the same meaning as given to that term in the SIA.

**NZX** means NZX Limited and, where the context requires, the main board financial product market that it operates.

**Related Party** means, in relation to a person, any person who directly or indirectly Controls the Shareholder, is under the Control of the Shareholder, or is under the common control of the Shareholder.

**Representative** means in relation to a person any director, officer, employee or agent of, and any accountant, auditor, financier, financial adviser, legal adviser, technical adviser or other expert adviser or consultant to, that person.

**Scheme** has the meaning given to it in paragraph A of the Background.

**Scheme Meeting** means any meeting of Company Shareholders for the purposes of section 236A(2)(a) of the Companies Act ordered by the Court to be convened under section 236(2)(b) of the Companies Act (and includes any adjourned meeting).

**Scheme Plan** has the meaning given to that term in the SIA.

**Share** means a fully paid ordinary share in the Company.

**SIA** has the meaning given to it in paragraph A of the Background.

**Specified Shares** means:

- (a) the 4,408,736 Shares held or controlled by the Shareholder as at the date of this agreement; and

- (b) in relation to clauses 2 and 4.2 only, also includes:
  - (i) Voting Rights in respect of Shares and any rights relating to the exercise of any voting power acquired under any swap, derivative arrangement, synthetic transaction or other contractual right or interest, in each case held or controlled on or after the date of this agreement; and
  - (ii) any other Shares which the Shareholder acquires or gains control over after the date of this agreement.

**Takeovers Code** means the Takeovers Code set out in the schedule to the Takeovers Regulations 2000.

**Voting Rights** has the meaning given in Rule 3 of the Takeovers Code.

**1.2 Interpretation:** In this agreement, unless the context otherwise requires or as specifically otherwise stated:

- (a) references to dates and times are to dates and times in New Zealand;
- (b) references to currency are to New Zealand currency;
- (c) headings are for convenience only and do not affect interpretation;
- (d) a reference to a statute or other law is a reference to a New Zealand statute or other law and includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (e) a reference to “including” means “including but not limited to” and “include” and “includes” have corresponding meanings;
- (f) a reference to any instrument or document includes any variation or replacement of it; and
- (g) no term of this agreement will be construed adversely to a party solely on the ground that the party was responsible for the preparation of this agreement or a provision of it.

## **2. Voting**

**2.1 Voting:** The Shareholder agrees that if the Scheme is proposed by the Company to Company Shareholders, then it will vote, or will procure that the chairman of the Company is appointed as proxy in respect of the Specified Shares and that the chairman is directed to vote, or will otherwise procure the vote of, all of the Specified Shares in favour of the resolution to be put to the Company Shareholders at the Scheme Meeting to approve or otherwise facilitate the Scheme, unless at the time the Scheme Meeting is held:

- (a) the Consideration is below the valuation range specified by the independent adviser appointed by the Company; or
- (b) the majority of independent directors of the Target recommend that the Target shareholders vote against the Scheme.

### **3. No disposals**

**3.1 No disposals:** The Shareholder agrees that, prior to the termination of this agreement, it will not, and will procure that each of its Related Parties and Representatives does not:

- (a) dispose of, or agree to dispose of, or encumber any of the Specified Shares (or any interest in them), other than to the Bidder under the Scheme or any alternative transaction promoted by the Bidder (or a related party of the Bidder) under the SIA;
- (b) dispose of, agree to dispose of or otherwise part with ownership, control or any Voting Rights in respect of Specified Shares; or
- (c) except as required by clause 2, fetter its right to vote any of the Specified Shares.

### **4. Warranties and acknowledgements**

**4.1 Mutual warranties:** Each party warrants to the other that:

- (a) it has the legal right, authority and full power to enter into this agreement and to perform its obligations under it;
- (b) it has taken all necessary corporate and other action to authorise the execution, delivery and performance of this agreement; and
- (c) this agreement constitutes valid and binding obligations enforceable against it in accordance with its terms.

**4.2 Shareholder warranties:** The Shareholder warrants to the Bidder that:

- (a) as at the date of this agreement, it holds 4,408,736 Shares;
- (b) it controls and has the right to exercise, or control the exercise of, the votes in relation to all of the Specified Shares;
- (c) it controls the disposal of all of the Specified Shares;
- (d) as at the date of this agreement, the only Voting Rights that it holds or controls in the Company are those in respect of the 4,408,736 Shares that it holds or controls; and



- (e) that it is able to assess the risks and implications of entering into this agreement and has had an opportunity to obtain independent legal advice in relation to this agreement.

**4.3 Acknowledgements:** The parties acknowledge that:

- (a) this agreement has been concluded on commercial, arm's length terms;
- (b) the Bidder and Shareholder are not acting jointly or in concert and nothing in this agreement is intended to make them Associates;
- (c) other than as set out in this agreement, there are no ongoing covenants between the Bidder and Shareholder; and
- (d) the legal relationship between the Bidder and Shareholder contemplated by this agreement will cease on the implementation of the Scheme or termination of the SIA.

**4.4 Substantial product holder notice:** The Bidder acknowledges that, as soon as practicable after both parties sign this agreement, it must provide a substantial product holder notice to NZX disclosing that it has a relevant interest in the Specified Shares as a result of this agreement.

## **5. Compliance with exemption notice**

**5.1 Exemption Notice:** The parties acknowledge and agree that:

- (a) the Bidder does not, under this agreement, become the controller of the Voting Rights attaching to the Specified Shares in any way other than in respect of the voting commitment contained in clause 2 of this agreement;
- (b) the voting commitment under this agreement relates to the scheme of arrangement that is proposed under the SIA;
- (c) the Bidder is required to, as soon as is reasonably practicable but, in any event, within one working day after this agreement is entered into, provide certain information about this agreement to the Takeovers Panel and the Company; and
- (d) if the Bidder becomes aware that any information sent under clause 5.1(c) has changed, the Bidder is required to, as soon as is reasonably practicable but, in any event, within one working day after becoming aware of the change, send notice of the change to the Takeovers Panel and the Company.

## **6. Bidder undertaking**

**6.1 Bidder undertaking:** The Bidder confirms to the Shareholder that, at the time of the entry into this agreement by all parties, the SIA and Scheme Plan contemplate that in respect of the 4,408,736 Shares held or controlled by the Shareholder as at the date of this agreement, and

any other Shares which the Shareholder acquires or gains control over after this agreement is entered into, the Shareholder will, subject to the implementation of the Scheme, receive the Consideration. The Bidder also confirms that if a higher consideration per Share is offered by the Bidder in the future under the Scheme, the Shareholder will receive it in respect of the Shares referred to above.

- 6.2 **Reliance by Shareholder:** The Bidder acknowledges and agrees that the Shareholder is entering into this agreement in reliance upon the Bidder's undertaking in clause 6.1.

## **7. Restriction on communications**

- 7.1 **No shop restriction:** The Shareholder must not, and must procure that each of its Related Parties and, when acting on its behalf (and not in any other capacity), its Representatives does not, prior to termination of this agreement, directly or indirectly:

- (a) solicit, invite, encourage, initiate or otherwise seek to procure any Competing Proposal or any other offer, proposal, expression of interest, enquiry, negotiation or discussion with any third party in relation to, or for the purpose of, or that may reasonably be expected to encourage or lead to, a Competing Proposal; or
- (b) assist, encourage, procure or induce any person to do any of the things referred to in clause 7.1(a) on its behalf.

- 7.2 **No talk restriction:** The Shareholder must not, and must procure that each of its Related Parties and, when acting on its behalf (and not in any other capacity), its Representatives does not, prior to termination of this agreement, directly or indirectly:

- (a) enter into, permit, continue or participate in, negotiations or discussions with any third party in relation to a Competing Proposal or for the purpose of or that may reasonably be expected to encourage or lead to a Competing Proposal; or
- (b) assist, encourage, procure or induce any person to do any of the things referred to in clause 7.2(a) on its behalf.

- 7.3 **Non-disparagement:** The Shareholder must not, and must use reasonable endeavours to procure that each of its Related Parties does not, prior to termination of this agreement, take any action or make any statement to any third party or to the general public that is disparaging or reflects negatively on the Company, the Bidder, their respective Associates or the Scheme. For the purposes of this clause 7.3, a "statement" includes both oral and written statements in all mediums (including statements published on the internet).

- 7.4 **Competing proposals:** For the avoidance of doubt, nothing in this clause 7 limits, alters, or otherwise affects the Company's ability to deal with a Competing Proposal in accordance with clause 13 of the SIA.

## **8. Termination**

**8.1 Automatic termination:** This agreement will automatically terminate on the earlier of:

- (a) the date on which the resolution to approve the Scheme is declared by the Company as having been passed at the Scheme Meeting by the requisite thresholds ordered by the Court under orders applicable to the Scheme Meeting; and
- (b) the date on which the SIA is terminated in accordance with its terms, with effect from the time of such termination.

**8.2 Termination by Bidder:** If required (in the reasonable opinion of the Bidder) in order for the Scheme to become Effective, the Bidder may terminate this agreement at any time by written notice to the Shareholder.

**8.3 Shareholder termination:** Subject to clause 8.5, the Shareholder may terminate this agreement by written notice to the Bidder if:

- (a) the SIA or the Scheme Plan in the form attached to the SIA is amended or varied; or
- (b) any rights or obligations under the SIA or the Scheme Plan in the form attached to the SIA are waived by the Bidder,

and the result of such amendment, variation or waiver:

- (c) is to reduce the Consideration;
- (d) is to change the form of the Consideration payable to Shareholders;
- (e) is to defer payment of all or part of the Consideration to Shareholders to a date which is after the Implementation Date;
- (f) is to impose additional conditionality on the Scheme which materially adversely affects the benefit of the Scheme for the Shareholders as a whole; or
- (g) otherwise materially adversely affects the benefit of the Scheme for the Shareholders as a whole,

where the Shareholder's prior written consent (acting reasonably) has not been obtained to such amendment, variation or waiver.

**8.4 Effect of termination:** If this agreement is terminated under clauses 8.1, 8.2 or 8.3:

- (a) except for this clause 8.4, this agreement has no further force and effect; and
- (b) the parties will otherwise be released from their obligations under this agreement and no party will have any claim against any other party arising under or in connection with such termination, except in respect of any breach occurring before termination.

8.5 **Notice:** The Shareholder may not exercise its right to terminate this agreement under clause 8.3 unless:

- (a) where the matter giving rise to the entitlement to terminate is capable of being remedied or cured, the Shareholder has first given the Bidder 48 hours' prior written notice of their intention to terminate and the Bidder has not remedied or cured the matter within that 48 hour period; or
- (b) the matter giving rise to the entitlement to terminate is not capable of being remedied or cured.

## **9. General**

### **9.1 Notices:**

- (a) Each notice or other communication under this agreement is to be made in writing and sent electronically to the addressee at the email address, and marked for the attention of the person or office holder, from time to time designated for the purpose by the addressee to the other parties. The initial email address and relevant person or office holder of each party is set out in clause 9.1(c) of this agreement.
- (b) No notice or other communication is to be effective until received. A communication will, however, be deemed to be received by the addressee on the Business Day on which the email was despatched or, if despatched after 5.00 p.m. (in the place of receipt) on a Business Day, on the next Business Day (in the place of receipt) after the date of despatch provided in each case the computer system used to transmit the communication:
  - (i) has received an acknowledgement of receipt to the email address of the person transmitting the communication; or
  - (ii) has not generated a record that the communication has failed to be transmitted.
- (c) The initial address details of each party are as set out below:
  - (i) the Shareholder at:  
  
**Email:** wangli743@cre.com.hk  
  
**Attention:** Li Wang
  - (ii) the Bidder at:  
  
**Email:** mark.stewart@masthead.co.nz  
  
**Attention:** Mark Stewart

With a copy (which does not constitute notice) to:

**Email:** Michael.Pritchard@MayneWetherell.com /  
Callum.Bailey@maynewetherell.com

**Attention:** Michael Pritchard / Callum Bailey

- 9.2 **Compliance with applicable laws:** Nothing in this agreement requires any party to do any act, matter or thing in contravention of the Takeovers Code (except as permitted by the Exemption Notice), the Exemption Notice or the conditions attaching thereto, the Commerce Act 1986, the Financial Markets Conduct Act 2013 or the Companies Act.
- 9.3 **Variation and waiver:**
- (a) This agreement may only be varied in writing signed by the parties.
  - (b) No waiver of any breach, or failure to enforce any provision, of this agreement at any time by the Bidder or the Shareholder will in any way affect, limit or waive that party's right thereafter to enforce and compel strict compliance with the provisions of this agreement.
- 9.4 **No assignment:** No party will, directly or indirectly, assign, transfer or otherwise dispose of any rights or interests of that party in, or obligations or liabilities under, this agreement without the written consent of the other.
- 9.5 **Costs:** The parties will each bear their own costs and expenses incurred in connection with the preparation, negotiation and implementation of this agreement and any documentation pertaining hereto.
- 9.6 **Specific performance:** Each party is entitled to seek specific performance, injunctive relief, or such other equitable relief, which remedies shall be without prejudice to any other rights and remedies available to such party under applicable law or under this agreement, as a remedy for a breach or threatened breach of this agreement by any other party.
- 9.7 **Severability:** If any part of this agreement is held by any court or administrative body of competent jurisdiction to be illegal, void or unenforceable, such determination will not impair the enforceability of the remaining parts of this agreement, which will remain in full force, and such provision will be deemed to be modified to the extent necessary to render it legal, valid and enforceable.
- 9.8 **Entire agreement:** This agreement constitutes the entire agreement and understanding (express and implied) between the parties relating to the subject matter of this agreement and supersedes and cancels all previous agreements and understandings between the parties relating thereto, whether written or oral.
- 9.9 **Counterparts:** This agreement may be executed in two or more counterparts (including electronic copies), each of which is deemed an original and all of which together constitute one and the same agreement. This agreement will be effective upon the exchange by electronic means of executed counterparts. The parties consent to the use of DocuSign or

other method of electronic signature as a method to execute this agreement or any document or notice relating to this agreement.

- 9.10 **Governing law:** This agreement shall be governed by, and construed in accordance with, New Zealand law, and the parties submit to the non-exclusive jurisdiction of the New Zealand courts.
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Execution Page

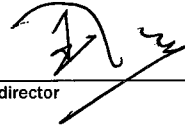
Bidder

Signed by **FLORENZ LIMITED** by:

DocuSigned by:  
*Mark Stewart*  
4847A3657E124D0...  
\_\_\_\_\_  
Signature of director  
  
Mark Stewart  
\_\_\_\_\_  
Name of director

**Shareholder**

Signed by **CHINA RESOURCES ENTERPRISES,  
LIMITED** by:



\_\_\_\_\_  
Signature of director

Mr. Yan WANG

\_\_\_\_\_  
Name of director



## Appendix 2 – Joint Venture Agreement

# **Joint Venture Agreement**

Dated 31 March 2003 (as amended and restated on 19 January 2021)

**Mayne  
Wetherell**

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## Parties

**Dame Ellen Adrienne Stewart** and **Mark James Stewart** as trustees of the Ellen Trust (**Ellen Trust**)

**Dame Ellen Adrienne Stewart** and **Mark James Stewart** as trustees of the Masthead Trust (**Masthead Trust**)

**Masthead Limited**, a company incorporated under the laws of New Zealand and having its principal place of business at Unit 2, 21 Leslie Hills Drive, Riccarton, Christchurch (**Masthead**)

## Background

- (A) The Parties have formed Masthead for the purpose of acting as their nominee in carrying out the Joint Venture.
- (B) The Parties have agreed that their respective rights and obligations relating to the Joint Venture shall be regulated by the terms and conditions of this agreement.

## Agreed terms

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### 1. Interpretation

1.1 **Definitions:** In this agreement, unless the context otherwise requires:

**Advances** means, in respect of a Party, any money that has been advanced to the Joint Venture by that Party, and includes any amount owing to that Party by the Joint Venture as a result of that Party taking an assignment or transfer of an interest (or part thereof).

**Affiliate** means, in respect of a Party, any person (other than Masthead and its subsidiaries) that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with that Party. A person shall be deemed to control another person for the purposes of this definition, if the first such person possesses, directly or indirectly, the power to appoint a majority of the directors of the second person, or to otherwise direct or cause the direction of the management or policies of the second person, whether through the ownership of voting securities, by contract or otherwise.

**Business Activities** means the collaboration between the Parties by way of an unincorporated joint venture, using Masthead as a nominee company to act on behalf of the Parties for the purposes of the Joint Venture, in seeking, researching and establishing a variety of commercial investments.

**Business Day** means a day (other than a Saturday or Sunday or public holiday) on which registered banks in Auckland are open for business.

**Chairperson** means the chairperson of the Joint Venture Board for the time being appointed under clause 2 of Schedule 2.

**Independent Valuer** means a suitably qualified valuer, sufficiently independent of the Parties.

**Interest** means the interest of any Party in the Joint Venture, and also includes any shares held by that Party in Masthead.

**Joint Venture** means the unincorporated joint venture between the Parties as constituted by this agreement.

**Joint Venture Board** means the board which is constituted under clause 5.

**Liquid Assets** means:

- (a) **(cash)** cash at bank credited to an account in the name of the Joint Venture, Masthead or any wholly-owned subsidiary of Masthead;
- (b) **(cash equivalent investments)** investments (excluding equity investments) in the name of the Joint Venture, Masthead or any wholly-owned subsidiary of Masthead which are readily convertible into cash without incurring any significant premium or penalty; and
- (c) **(listed financial products)** investments in the name of the Joint Venture, Masthead or any wholly-owned subsidiary of Masthead in financial products that are listed on a recognised stock exchange (excluding investments where the Joint Venture, Masthead and wholly-owned subsidiaries of Masthead hold, in aggregate between them, 5% or more of the total number of the relevant financial products).

**Masthead** means Masthead Limited being the nominee company through which the Joint Venture is to be undertaken.

**NZGAAP** means "generally accepted accounting practice" as defined in section 8 of the Financial Reporting Act 2013.

**Party or Parties** means such one or more of the Ellen Trust or the Masthead Trust and any other person or persons who pursuant to the terms and conditions of this agreement becomes a Party and therefore bound by the terms of this agreement or such one or more of those persons as the context requires.

**Representative** means an appointee of any Party to the Joint Venture Board, pursuant to clause 5.

**Terminating Party** means a Party which serves a Termination Notice pursuant to clause 4.2.

**Termination Notice** means a prior written notice of a period of no less than 12 months from the date upon which such notice is given, by a Terminating Party to the other Parties, that it wishes to terminate the Joint Venture, pursuant to clause 4.2.

**Trial Balance** means the listing of the balance of all of the Joint Venture's ledgers (revenue, expenses, assets and liabilities).

**1.2 Interpretation:** In this agreement:

- (a) references to sections, clauses and schedules are to sections, clauses and schedules of this agreement;
- (b) the headings to clauses shall (unless otherwise specified) be ignored in construing this agreement;
- (c) a gender includes each other gender;
- (d) any party to this agreement or any other agreement includes its successors and permitted assignees and transferees;
- (e) the plural includes the singular and vice versa;
- (f) a statute includes that statute as amended from time to time and any regulations, orders in council and other instruments issued or made under that statute from time to time and legislation passed in substitution for the statute;
- (g) an obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done;
- (h) derivatives of any defined word or term have a corresponding meaning;
- (i) this agreement shall not bind any Party until it has been signed by all Parties;
- (j) "including" and similar words do not imply any limitation;
- (k) if a Party comprises more than one person, each person's liability is joint and several;
- (l) any obligation falling due for performance on or by a day other than a Business Day shall be performed on or by the Business Day immediately following that day;
- (m) all moneys to be paid in terms of this agreement shall be paid in New Zealand currency by electronic transfer on or before 4pm on the due date for payment;
- (n) reference to one Party notifying another or giving notice to another, or agreeing, consenting or objecting to any matter or nominating or making any nomination, or giving any direction means that Party notifying, giving notice, agreeing, consenting, objecting, nominating or directing (as the case may be) in writing;

- (o) the recitals to this agreement under the heading "Background" form part of this agreement.

## **2. Establishment, Commencement and Scope**

- 2.1 **Establishment:** The Parties hereby establish the Joint Venture to accomplish the Business Activities in accordance with the terms and conditions of this agreement.
- 2.2 **Term:** The Joint Venture shall continue until terminated pursuant to the provisions of this agreement.
- 2.3 **Status of Joint Venture:** The Joint Venture between the Parties shall be unincorporated so that all assets and revenues of the Joint Venture shall belong to the Parties as tenants-in-common, subject to the provisions of this agreement. The Parties acknowledge that Masthead will be their nominee to hold all the assets of the Joint Venture on trust for the Parties as bare trustee in accordance with their respective Interests.
- 2.4 **Commercial advantage:** The Joint Venture and all the activities and decisions of each of the Parties in connection therewith shall be conducted in the best interests of the Parties on sound commercial profit-making principles and shall be directed to securing the maximum commercial opportunities available to the Parties and no Party shall take or refrain from taking any action the consequence of which shall be that the commercial advantage of the Joint Venture is not maximised. However, the Parties acknowledge that the respective trustees of the Ellen Trust and the Masthead Trust will require to fulfil their obligations under this agreement in light of their respective fiduciary obligations to their respective beneficiaries.
- 2.5 **Co-operation:** The Parties will at all times during the continuance of the Joint Venture act honestly and faithfully and with due and proper diligence in the interests of each other and will promptly and properly comply with all obligations imposed on each Party and will at all times use their respective best endeavours to co-operate with each other to ensure the efficient operation of the Joint Venture and further will not enter into any independent arrangements, agreements or understandings to promote the sole interests of such Party to the detriment of the Joint Venture and in particular (but without limitation) will not engage or be involved in, and will procure that none of their Affiliates is engaged or involved in, any business or activities which are competitive with those of the Joint Venture, except after consultation with the other Parties and with their consent (such consent not to be unreasonably withheld).
- 2.6 **Holdings of Masthead shares:** The Parties will hold the Masthead shares in equal portions, with all such shares ranking equally in all respects.
- 2.7 **Constitution:** The constitution of Masthead shall be substantially in the form annexed as Schedule 1.
- 2.8 **Masthead Director:** Masthead will have one director, appointed by agreement between the Parties. Such director will have no discretion to exercise rights in respect of the Joint

Venture or the assets of the Joint Venture which Masthead holds on trust for the Parties, and such director will at all times be subject to the direction and control of the Joint Venture Board.

- 2.9 **Financial year:** The financial year of the Joint Venture shall end on 31 March in each year.
- 2.10 **Bankers:** The bankers of the Joint Venture shall be determined from time to time by resolution of the Joint Venture Board.

### **3. Joint Venture Operations**

#### **3.1 Operational Plan, Budget and Investment Policies:**

- (a) An annual operational plan, budget and investment policies for the Joint Venture for each financial year shall be developed and prepared by management of the Joint Venture for consideration by the Joint Venture Board. Proposals for the financing of the operational plan, budgets and investment policies shall also be developed for the Joint Venture Board's consideration. Each operational plan shall set out in detail the business to be undertaken by the Joint Venture during the year.
- (b) The annual operational plan, budget and investment policies shall be submitted to the Joint Venture Board at least 1 month prior to the end of the preceding financial year. Joint Venture management shall ensure that the annual operational plan, budget and investment policies together with all necessary supporting material are forwarded to all Representatives at least 2 weeks prior to the Joint Venture Board meeting at which they are to be considered. No annual operational plan, budget and investment policies will be implemented until approved by the Joint Venture Board.
- (c) If necessary, the Joint Venture Board (pursuant to management recommendations) may from time to time develop and prepare supplementary or revised operational plans, budgets and investment policies. These operational plans, budgets and investment policies will also be forwarded to all Representatives at least 2 weeks prior to the Joint Venture Board meeting at which they are to be considered. Any supplementary or revised operational plan, budget or investment policies will not be implemented until approved by the Joint Venture Board.

- 3.2 **Supply of financial statements:** Joint Venture management shall provide to the Joint Venture Board:
- 3.3 a Trial Balance as at 31 March for each financial year within 60 days of the end of such financial year; and
- 3.4 if required by the Joint Venture Board, a valuation by an Independent Valuer of the assets of the Joint Venture as at the end of each financial year, within 30 days after the end of such financial year.



- 3.5 **Repayments of Advances:** Repayments of all or any part of the Advances, after the obtaining of any required approval under clause 5.6, must be made to the Parties in proportion to the outstanding balances of their respective Advances at that time.
- 3.6 **Further Advances:** If the Joint Venture Board resolves that the Joint Venture requires further capital, the opportunity to provide such capital as Advances must be offered to the Parties in proportion to the outstanding balances of their respective Advances at that time. Any unallocated capital must be used to satisfy any requests by a Party to provide more than their proportionate share of the capital. If, thereafter, any capital remains unallocated the Joint Venture Board may only obtain that capital from a third party if all of the Parties agree. This clause does not apply to debt funding from a registered bank or to any investment by a third party into any business directly or indirectly owned by the Joint Venture.
- 3.7 **Allocation of expenses and revenues:** The Parties agree that the expenses and revenues of the Joint Venture will be divided among the Parties in proportion to the outstanding balances of their respective Advances from time to time. However, the timing of the distribution to the Parties of allocated net revenues will be decided by the Joint Venture Board.
- 3.8 **Interests:** The respective Interests of the Parties will be in proportion to the outstanding balances of their respective Advances from time to time.

## **4. Termination Procedure**

- 4.1 **No Transfer Right:** No Party has any right to sell, transfer, assign, or otherwise dispose of its Interest, except with the unanimous consent of the Parties.
- 4.2 **Termination Procedure:**
- (a) **Termination Notice:**
    - (i) Unless unanimously agreed by the Parties otherwise, a Party may only terminate the Joint Venture by serving a valid Termination Notice on the other Parties in accordance with this clause.
    - (ii) A Termination Notice is valid only if it is served:
      - (A) at a time on or before 31 March 2031 when not less than 75% of the consolidated assets of the Joint Venture and its wholly-owned subsidiaries (by value) are Liquid Assets; or
      - (B) at any time after 31 March 2031.
    - (i) A Termination Notice may only be withdrawn by the relevant Terminating Party with the consent of the other Parties.
  - (b) **Winding-up plan:** Upon receipt of a valid Termination Notice, the Joint Venture Board shall prepare a plan for the efficient and economic winding-up of the Joint Venture.

- (c) **Contents of plan:** The winding-up plan shall provide for and shall oblige the Joint Venture Board to:
- (i) determine the net value of the assets of the Joint Venture in accordance with clause 4.2(d);
  - (ii) distribute to the Parties any or all of the assets of the Joint Venture (the **Distributed Assets**) in such manner as they unanimously agree;
  - (iii) conduct or cause to be conducted the sale or realisation of the other assets of the Joint Venture (the **Realised Assets**) in accordance with clause 4.2(e);
  - (iv) distribute the net proceeds of the Realised Assets to the Parties in proportion to their respective Interests;
  - (v) obtain all necessary governmental and other clearances and releases to effect the winding-up;
  - (vi) pay and discharge the debts and liabilities of the Joint Venture (and retain from distributions to the Parties such amounts as are considered by the Joint Venture Board to be necessary to meet any debts, liabilities, costs or expenses of the Joint Venture);
  - (vii) place Masthead into liquidation at the appropriate time; and
  - (viii) when appropriate ensure the final settlement of accounts.
- (d) **Valuation of assets:** Upon receipt of a valid Termination Notice, the Parties will promptly proceed to have the net value of the assets of the Joint Venture determined by reference to the then fair market value of such assets. The valuation will be undertaken by an Independent Valuer jointly appointed by the Parties. Should the Parties be unable to agree on a mutually acceptable Independent Valuer within 5 Business Days from the date of the Termination Notice then any Party may apply to the President (or his or her nominee) for the time being of the New Zealand Law Society to appoint an Independent Valuer for the purpose of undertaking the valuation. The Terminating Party shall jointly be responsible for the costs of any Independent Valuer. The Independent Valuer's valuation under this clause 4.2(d) is not binding on the Parties, and is undertaken only for the purpose of giving the Parties an indication of the likely value of the assets of the Joint Venture in the event of an orderly sale thereof.
- (e) **Asset realisation:** Upon receipt of a valid Termination Notice, the Parties will cooperate together in good faith to effect an orderly sale or realisation of the assets of the Joint Venture in accordance with the winding-up plan provided that the Parties acknowledge that, subject to the approval process under clause 4.2(f), the Joint Venture Board will conduct the asset sale process.

- (f) **Approval of asset sales:** Following receipt of a valid Termination Notice, the unanimous consent of the Parties will be required in respect of the sale of any asset of the Joint Venture provided that if the unanimous consent of the Parties cannot be obtained within 5 Business Days after each of the Parties has received written notice from the Joint Venture Board of the proposed sale and its terms and conditions, an opinion will be obtained from an Independent Valuer appointed by the Joint Venture Board as to whether or not the proposed sale price (and the terms and conditions of sale) of the relevant asset is a fair and reasonable reflection of the then current fair market value of such asset (on an orderly sale basis). Any appointment so made and the opinion as provided by the Independent Valuer shall be binding on the Parties for the purpose of this clause 4.2(f). If the Independent Valuer advises that in his or her opinion the price and terms and conditions of the proposed asset sale are fair and reasonable taking into consideration the then current fair market value of the relevant asset (on an orderly sale basis), then all Parties will be deemed to have given their consent to the proposed asset sale at that price and on those terms and conditions.
- (g) **Party can be purchaser:** Notwithstanding any other provision of this agreement or any rule of law or equity, any Party may be and shall not be disqualified from being a purchaser of any of the assets of the Joint Venture on any sale pursuant to this clause 4.2.
- 4.3 **Termination:** Once the winding-up plan has been completed, this agreement and the Joint Venture shall terminate (but such termination shall be without prejudice to any accrued rights and remedies of the Parties).
- 5. Governance**
- 5.1 **Joint venture board:** Subject to clause 5.6, all decisions in respect of the Joint Venture shall be taken by the Representatives of the Parties constituted as the Joint Venture Board.
- 5.2 **Power to bind:** No act of any of the Parties shall be the act or deed of or be binding upon, any other Party unless done or taken through or approved by the Joint Venture Board or otherwise formally approved in the manner contemplated by this agreement. The Joint Venture Board shall have no power to bind any Party beyond the terms of this agreement without the prior written agreement of such Party.
- 5.3 **Membership:** The Joint Venture Board shall comprise up to 2 Representatives, with each of the Ellen Trust and the Masthead Trust having the right to appoint 1 Representative. Each Party shall, by written notice to the other Parties, be entitled to appoint 1 alternate Representative to the Joint Venture Board. In addition, the Parties agree that additional persons (whether being persons associated with a Party or not) may, by agreement of the Joint Venture Board, be invited to attend meetings of the Joint Venture Board from time to time, for the purpose of providing specialist advice to the Joint Venture Board.
- 5.4 **Joint Venture board procedure:** The Joint Venture Board shall be regulated by the rules set out in Schedule 2.

- 5.5 **Day to day management:** The business of the Joint Venture shall be initially managed by management personnel appointed by the Joint Venture Board. Management will report to the Joint Venture Board and be responsible for the day to day operation of the Joint Venture in a manner consistent with the terms of this agreement and subject to the ultimate direction and control of the Joint Venture Board.
- 5.6 **Joint Venture Board restrictions:** Notwithstanding clause 5.1, the Joint Venture Board shall not undertake or allow the following without the unanimous approval of the Parties (regardless of whether such matters have previously been disclosed in a document approved by the Joint Venture Board under clause 3.1):
- (a) the entry of the Joint Venture into any contract or related series of contracts with a value of \$2,000,000.00 or more per annum;
  - (b) any transaction for the acquisition or disposition by the Joint Venture of any assets (whether in a single or in a related series of transactions) of a value of \$2,000,000.00 or more;
  - (c) the entry of the Joint Venture into contracts of a term of more than 2 years which cannot be terminated on reasonable notice and without penalty;
  - (d) any material change in the nature or scope of the business of the Joint Venture or the terms and conditions of any consent, licence, approval or concession granted to or relied upon by the Joint Venture;
  - (e) the admission of a third party to the Joint Venture and/or the business of the Joint Venture (except in accordance with any other provisions of this agreement);
  - (f) establish, allow subcontracting of any function of, or vary the terms and conditions of, any management agreement under which any person has been contracted to manage all or part of the Joint Venture's business;
  - (g) debt funding or granting security over the assets of the Joint Venture;
  - (h) requiring the Parties to contribute additional capital or loan funding to the Joint Venture; or
  - (i) repayment of all or any part of the Advances or any of them.
- 5.7 **Parties' meetings:** The Parties will meet together at no less than 6 monthly intervals to question, discuss, or comment on the Joint Venture and to address questions about the Joint Venture to the Joint Venture Board.

## **6. Management**

- 6.1 **Access to Company operations:** The Parties shall each have full and complete access to Joint Venture operations at all reasonable times for the purpose of inspection or audit but so as not unreasonably to interfere with the operations of the Joint Venture.

- 6.2 **Access to records of Joint Venture:** The Parties shall each have full and complete access to the books of account, registers and other records (including all other information in whatever form) of the Joint Venture at all reasonable times for the purpose of inspection but so as not unreasonably to interfere with the operations of the Joint Venture.
- 6.3 **Staff:** The Joint Venture shall appoint its own staff, either as employees, or on a contract basis, to provide for other respects of its management and operations.

## **7. Confidentiality**

- 7.1 **Confidentiality of information:** The Parties each agree that Joint Venture accounts, records, reports and other documents and information relating to the Joint Venture and the terms and conditions of this agreement (such accounts, records, reports information and the terms and conditions of this agreement being referred to in this clause as **Confidential Information**), provided or disclosed by one Party (in this clause called the **Disclosing Party**) to the other Party or Parties, is confidential, whether oral, written or embodied in other physical form, except that information is not to be considered confidential if the Party or Parties receiving the Confidential Information proves:
- (a) that the information was known to such Party or Parties on the date of its receipt from the Disclosing Party;
  - (b) the information was in the public domain on the date of its receipt from the Disclosing Party; or
  - (c) the information had entered the public domain after the date of its receipt from the Disclosing Party other than by unauthorised disclosure by a Party or any other person.
- 7.2 **Disclosure of Confidential Information:** Neither any Party receiving Confidential Information will disclose, in whole or in part, to any third person Confidential Information received from a Disclosing Party except as approved in writing by the Disclosing Party or where necessary to carry out the Business Activities. No Party shall have the right to use or disclose Confidential Information disclosed by a Disclosing Party except in furtherance of the Business Activities. Before making a disclosure of Confidential Information to a third person, the Party concerned shall inform the Disclosing Party of its intention to disclose and shall inform such third persons of the confidential obligations under this agreement and require such third person to be bound by the confidentiality obligations.
- 7.3 **Obligation on termination:** Immediately upon termination of this agreement for any reason whatsoever, each Party shall cease use of all Confidential Information received from a Disclosing Party and shall within 2 weeks of termination, deliver to the Disclosing Party all documents and things in its possession or control containing or constituting Confidential Information disclosed or provided by the Disclosing Party to the other Party and Parties.
- 7.4 **Confidentiality agreements:** Each Party shall require each of its managers, technical personnel and all other persons who may have access to Confidential Information disclosed

by a Disclosing Party to execute a confidentiality agreement in such form as the Parties may mutually agree upon. Managers, technical personnel and other employees and contractors of the Joint Venture who have access to Confidential Information shall also be required to execute such confidentiality agreements.

- 7.5 **Confidentiality obligations to continue:** The obligations of confidentiality under this clause shall continue beyond the termination of this agreement. Furthermore a Party shall continue to be bound by this clause notwithstanding that it may have transferred its Interest or otherwise ceased to hold its Interest or be a party to this agreement.

## **8. Prohibition on Mortgages of Interest**

- 8.1 **Mortgage of Interest:** No Party shall mortgage, pledge, charge or otherwise encumber (whether by way of assignment or otherwise) all or any portion of its Interest.

## **9. Miscellaneous**

- 9.1 **Exclusion of partnership and agency:** Nothing in this agreement shall create, or constitute or be deemed to create or constitute a partnership between the Parties or any of them, nor to constitute or create or be deemed to create or constitute a Party as an agent of any other Party for any purpose whatsoever. No Party shall have any authority or power whatsoever to bind or commit, act or represent or hold itself out as having authority to act as an agent of, or in any way bind or commit the other Parties to any obligations. The rights, duties, obligations and liabilities of the Parties shall be several and not joint or collective and nothing herein contained shall be construed as creating a partnership each Party being individually responsible only for its obligations as set out in this agreement.
- 9.2 **Service of Notices:** All demands, consents and notices authorised or required to be made under this agreement shall be in writing and may be given to, or served upon a recipient by:
- (a) being left at the recipient's address as stated below or as notified pursuant to clause 9.3; or
  - (b) being posted in a prepaid, certified or registered letter addressed to the recipient Party at its stated or notified address.
- 9.3 **Deemed service:** Any such demand, or notice shall be deemed duly served in the case of a facsimile, on the same day if sent before 5.00pm on any Business Day in the place of receipt, and if sent after 5.00pm on any such working day or on a day other than such a working day, and so confirmed, then on the first working day in the place of receipt following the day of transmission and in the case of post at the expiration of 2 Business Days after the time of posting. Any demand, consent or notice may be signed by any of the Parties thereto or on its behalf by any director, secretary, manager or other duly authorised agent for the time being of the Party.



The address of the Parties and Masthead will be as follows:

Ellen Trust                      PO Box 2043  
Christchurch 8140  
Unit 2, 21 Leslie Hills Drive, Riccarton, Christchurch  
**Attention:** Adrienne Stewart

Masthead Trust                PO Box 2043  
Christchurch 8140  
Unit 2, 21 Leslie Hills Drive, Riccarton, Christchurch  
**Attention:** Mark Stewart

Masthead                      PO Box 2043  
Christchurch 8140  
Unit 2, 21 Leslie Hills Drive, Riccarton, Christchurch  
**Attention:** Mark Stewart

- 9.4     **Change of address:** A person on becoming a Party shall notify the other Parties of its address in New Zealand for service of all demands, consents and notices. A Party may change its address for service by appropriate notice to the Parties.
- 9.5     **Prior negotiations:** So far as the subject matter of this agreement is concerned this agreement comprises the full agreement between the Parties and replaces all prior negotiations, agreements, arrangements or understandings whether oral or written. No oral explanation or oral information given by any Party to the other Parties shall alter the meaning or interpretation of this agreement.
- 9.6     **Variation or waiver of agreement:** Any modification or variation of this agreement or a purported waiver of the rights of a Party under this agreement shall not be of any force or effect unless in writing and executed by the Parties thereto or, in the case of a waiver, by the Party whose rights are expressed to be waived.
- 9.7     **Governing law:** This agreement and any modification or variation hereto shall be governed by the laws from time to time in force in New Zealand. All questions with respect to jurisdiction, validity, interpretation and performance of this agreement and any such modifications or variations shall be determined according to the laws of New Zealand in force from time to time and shall be subject to the non-exclusive jurisdiction of the High Court of New Zealand.
- 9.8     **Partial invalidity:** If any clause or provision of this agreement shall be, or shall be deemed to be, judged invalid for any reason whatsoever, such invalidity shall not affect the validity or operation of any other clause or provision of this agreement except only so far as may be necessary to give effect to the construction of such invalidity.
- 9.9     **Conflict:** In the event of a conflict between the provisions of this agreement and the Constitution, the provisions of this agreement shall prevail.

- 9.10 **Counterparts:** This agreement may be signed in any number of counterparts all of which taken together shall constitute one and the same instrument. Any party may enter into this agreement by signing any such counterpart.
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## **Execution Page**

*[Note: Not separately executed.]*



## **Schedule 1: Masthead Constitution**

### **1. Definitions and Interpretation:**

- (a) In this Constitution, unless the context otherwise requires:

**Act** means the Companies Act 1993 as amended from time to time or any Act which replaces that Act.

**Company** means Masthead Limited.

**Joint Venture Agreement** means the Joint Venture Agreement in relation to the Company dated 31 March 2003 (as amended and restated from time to time) between (as at the date of this constitution) the trustees of the Ellen Trust, the trustees of the Masthead Trust and the Company.

**Joint Venture Parties** has the meaning given to the term "Parties" in the Joint Venture Agreement.

- (b) In this Constitution, unless the context otherwise requires:

- (i) references to section numbers are to subsections of the Act;
- (ii) headings are for guidance only and shall not affect the interpretation of this Constitution.

2. **Purchase of Own Shares:** The Company is permitted to purchase or otherwise acquire shares issued by it and it may also hold its own shares in accordance with the Act.

### **3. Directors:**

- (a) **Duty of Directors:** A director of the Company is permitted to act in a manner which he or she believes is in the best interests of a shareholder or shareholders even though it may not be in the best interests of the Company.
- (b) **Number of Directors:** The number of directors of the Company must not at any time exceed one.
- (c) **Appointment and Removal:** The Joint Venture Parties may at any time by written notice to the Company appoint and/or remove a director, and section 156 shall not apply.

4. **Bare Trustee:** The Company is intended to have the function of holding the assets of a joint venture between the shareholders as a bare trustee only and the rights, powers and privileges of the Company are limited to the terms of the trust upon which those assets are held accordingly.

### **5. Indemnity and insurance:**

- (a) **Indemnity of directors:** Subject to clause 5(b), every director shall be indemnified by the Company:
- (i) for any costs incurred by him or her in any proceeding that relates to liability for any act or omission in his or her capacity as a director and in which judgment is given in his or her favour, or in which he or she is acquitted, or which is discontinued; and
  - (ii) in respect of liability to any person other than the Company or a related company for any act or omission by him or her in his or her capacity as a director, and costs incurred by him or her in defending or settling any claim or proceeding relating to any such liability,
- and this indemnity shall continue in force, despite any subsequent revocation or amendment of this clause, in relation to any liability which arises out of any act or omission by a director prior to the date of such revocation or amendment.
- (b) **Exceptions:** The indemnity conferred by clause 5(a)(ii) shall not apply in respect of:
- (i) any criminal liability; or
  - (ii) any liability in respect of a breach of the duty specified in section 131 of the Act.
- (c) **Insurance:** The Company may, with the prior approval of the board, effect insurance for a director of the Company or a related company, in respect of:
- (i) liability, not being criminal liability, for any act or omission by him or her in such capacity; or
  - (ii) costs incurred by him or her in defending or settling any claim or proceeding relating to any such liability; or
  - (iii) costs incurred by him or her in defending any criminal proceedings that have been brought against the director in relation to any act or omission in his or her capacity as a director and in which he or she is acquitted.
- (d) **Definitions:** In this section 5 words given extended meanings in section 162(9) of the Act have those extended meanings.

## **Schedule 2: Rules of Joint Venture Board**

1. **Membership:** The Joint Venture Board shall comprise the persons appointed from time to time by written notice from a Party to the other Parties in accordance with Clause 5.3 of the agreement and a Party may similarly remove its Representative from the Joint Venture Board.
2. **Chairperson:** The Joint Venture Board shall be chaired by the member appointed by the Joint Venture Board ("**Chairperson**"). If the Chairperson cannot attend any particular meeting of the Joint Venture Board, he or she may designate another person (who must be a member of the Joint Venture Board) to act as chairperson in his or her place.
3. **Frequency of Meetings:** The Joint Venture Board shall meet at such times as it shall determine but no less often than monthly. A meeting shall also be called upon the request of any member given in writing to the Chairperson of the Joint Venture Board.
4. **Notices:** Notice of meetings shall be given to all members by the Chairperson not less than 5 Business Days prior to the date of the meeting specifying the time, place and proposed business of the meeting. Such notice shall be given to the address specified by each Joint Venture Board member for that purpose (or if no address is specified, to the Party of which that member is a nominee). The meeting may deal with any business not specified in the notice of meeting provided that each participant is represented at the meeting by one or more nominees and no member present objects to the consideration of that business.
5. **Quorum:** No business shall be transacted at any meeting of the Joint Venture Board unless a quorum is present in person at the time when the meeting proceeds to business. Unless all Parties agree otherwise, the quorum for meetings of the Joint Venture Board shall be 2 voting members comprising at least one Representative of each Party.
6. **Adjournment:** If within half an hour of the time appointed for the meeting a quorum is not present, the meeting shall stand adjourned for 5 Business Days at the same time and place and, if at the adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the member or members (or his, her or their alternatives) present shall constitute a quorum.
7. **Voting:** Voting at any meeting of the Joint Venture Board shall be relative to each Party's Interest. The Chairperson shall have a casting or deliberative vote in the event of a voting deadlock on any decision of the Joint Venture Board (other than those matters which require the unanimous approval of the Parties).
8. **Written Resolutions:** A resolution in writing signed by each member of the Joint Venture Board (or their respective alternates) shall be as valid and effectual as a resolution passed at a meeting of the Joint Venture Board. Any such resolution may consist of several documents in like form each signed by one or more of the members of the Joint Venture Board. A facsimile or email message purporting to be sent by a voting member shall be deemed to be a document signed by such member for the purpose of this clause.

9. **Meeting by Telephone Videoconference:** The contemporaneous linking together by telephone or other means of communication of a number of the members of the Joint Venture Board not less than a quorum, whether or not any one or more of the members is out of New Zealand, shall be deemed to constitute a meeting of the Joint Venture Board so long as the following conditions are met:
- (a) all the members shall be entitled to notice of a meeting by telephone or other means of communication and to be linked by telephone or such other means for the purposes of such meeting. Notice of any such meeting may be given by telephone or other means of communication;
  - (b) each of the members taking part in the meeting must be able to hear each of the other members taking part at the commencement of the meeting,
- and a minute of the proceedings at any such meeting shall be sufficient evidence of such proceedings and of the observance of all necessary formalities, if certified as a correct minute by the Chairperson or by another member.
10. **Matters Requiring Unanimity:** None of the matters referred to in clause 5.6 of the agreement may be implemented or given effect to by the Joint Venture Board on behalf of the Parties unless it is consented to by all of the members of the Joint Venture Board present at a meeting of the Joint Venture Board (where such matter is considered).