

AMALGAMATION PROPOSAL

This document describes the terms of a proposal under Part XIII of the Companies Act 1993 (“**Act**”) to amalgamate New Zealand Fruits Limited (“**NZ Fruits**”) and Seeka East 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 East 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 one ordinary share, and that share 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 NZ Fruits.
 - (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 NZ Fruits will be cancelled and will not be converted into shares in the Amalgamated Company. The consideration given to NZ Fruits shareholders for cancellation of their shares in NZ Fruits is described in paragraph 8 below.
8. **Consideration for cancellation of NZ Fruits shares:** As consideration for the cancellation of NZ Fruits’ shares:
 - (a) Upon the Amalgamation becoming effective in accordance with the Act each NZ Fruits Share will be cancelled and Seeka will:

- (i) issue to each person who was registered on NZ Fruits' share register as a NZ Fruits Shareholder on the Record Date that has not given NZ Fruits written notice under section 111 of the Act requiring NZ Fruits to repurchase their NZ Fruits Shares after the passing of a special resolution to approve the Amalgamation:
 - (A) 7.5016 Seeka Shares, based on an issue price of \$5.2455 per Seeka Share (being the VWAP of Seeka Shares for the 10 Working Day period ending on 9 December 2021, as supplied by NZX); and
 - (B) \$39.3495 in cash,for each NZ Fruits Share held by the applicable MZ Fruits 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 NZ Fruits' share register as a NZ Fruits Shareholder on the Record Date that has given NZ Fruits written notice under section 111 of the Act requiring NZ Fruits to repurchase their NZ Fruits Shares after the passing of a special resolution to approve the Amalgamation, \$78.6990 for each NZ Fruits Share held by the applicable NZ Fruits Shareholder on the Record Date.
- (b) All fractions of Seeka Shares will be rounded up to the next whole number of Seeka Shares.
- (c) 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 NZ Fruits 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 NZ Fruits 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 NZ Fruits 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 NZ Fruits and Seeka Sub will, on or before 20 December 2021, give notice of the proposed Amalgamation to the secured creditors of NZ Fruits and Seeka Sub, and public notice of the proposed Amalgamation in accordance with section 221(4) of the Act.

- (c) NZ Fruits 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 by the date that is two Working Days after the Condition Date.
- (d) Seeka, as shareholder of Seeka Sub, will be asked to approve the Amalgamation by a Special Resolution in writing.
- (e) If the necessary special resolutions of NZ Fruits 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 NZ Fruits, 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.
- (f) The Amalgamation is conditional on the conditions set out in the Appendix either being satisfied or waived, by no later than 5:00 p.m. on the Working Day prior to the Effective Date (or such earlier date specified in the Appendix) in accordance with the Amalgamation Implementation Agreement between Seeka and NZ Fruits dated 10 December 2021.

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

- (a) Seeka Sub currently intends to operate its business in conjunction with Seeka's own operations in the region;
- (b) the Amalgamated Company will satisfy NZ Fruits' obligations under the NZ Fruits supply commitments.

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

“**Act**” means the Companies Act 1993.

“**Amalgamation**” means the amalgamation of NZ Fruits and Seeka Sub under Part XIII of the Act, in which Seeka Sub will be the amalgamated (surviving) company.

“**Condition Date**” means 18 January 2022 or such other date as agreed by Seeka and NZ Fruits (each acting reasonably).

“**Conditions**” means the conditions to the Amalgamation set out in the Appendix.

“**Effective Date**” means the date the Amalgamation becomes effective pursuant to section 225 of the Act, which shall be:

- (a) 10 Working Days after satisfaction of the Condition in item 6 of the Appendix as it relates to regulatory approvals or the date on which the parties agree that no regulatory consents as referred to in that Condition are required, but in any event no earlier than 10 Working Days after the satisfaction of all other Conditions (other than the Conditions in Items 4 and 9 of the Appendix), which relate to the Effective Date), with the parties anticipating that the Effective Date will be on or around 1 February 2022; or
- (b) such other date as the parties agree in writing.

“Leased Business Premises” means the properties leased by NZ Fruits, including the North Store and South Store located at Eastland Port, 1 Kaiti Beach Road, Gisborne 4040.

“Major Growers” means each grower who supplied kiwifruit to NZ Fruits in the 2021 season that is a shareholder of NZ Fruits.

“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 the financial year ending 31 December 2021, by comparison to EBITDA of that Company and its related Companies as set out in the financial statements for the financial year ended 31 December 2020; 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 the financial year ended 31 December 2020; or
- (b) 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
- (c) is the entry by that Company into a compromise or arrangement with any of its creditors; or
- (d) 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
- (e) is that Company ceasing or threatening to cease to carry on business; or
- (f) results in that Company being or becoming unable to pay its debts when they fall due in the ordinary course of business; or
- (g) 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
- (h) in respect of Seeka, a change in the daily VWAP 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% (upward or downward) from a price of \$5.2455 for 10 consecutive Working Days;

“NZ Fruits” means New Zealand Fruits Limited.

“NZ Fruits Share” means any share in NZ Fruits.

“NZ Fruits Shareholder” means the holder of a NZ Fruits Share on the Record Date.

“Record Date” means 5:00 p.m. on the day that is two Working Days before Effective Date or such other date agreed by the parties.

“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 East 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, 2023 and 2024 supply seasons.

“Working Day” has the meaning given to that term in the Act.

Appendix

Conditions

1. All necessary shareholder approvals (including any requisite approvals of interest groups) being obtained from the NZ Fruits Shareholders by the date that is two Working Days after the Condition Date, including a special resolution of NZ Fruits Shareholders (including Eastern Bay Orchards Limited) required pursuant to section 221(5) and section 106(1)(c) of the Act and a waiver of any pre-emptive rights of shareholders applicable to the amalgamation (if any).
2. All necessary shareholder approvals (including any requisite approvals of interest groups) being obtained from Seeka by the Condition Date including a special resolution of Seeka required pursuant to section 221(5) and section 106(1)(c) of the Act.
3. Seeka receiving Seeka Supply Commitment Agreements signed by Major Growers before the Condition Date, such that all Major Growers have committed to supply Seeka (or Seeka Sub) in the 2022, 2023 and 2024 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. NZ Fruits not having received valid written notices from shareholders who together hold a number of NZ Fruits Shares that exceeds ten per cent (10%) of the aggregate number of NZ Fruits Shares on issue as at the date of this Amalgamation Proposal 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 NZ Fruits to repurchase their shares.
6. Seeka and/or NZ Fruits obtaining any regulatory approvals (to the extent any are required) and regulatory consents in relation to, the Amalgamation by the Condition Date (or such other date as the parties agree in writing).
7. All Permits being obtained that are required to enable Seeka Sub to have the full use and benefit of NZ Fruits' business following Amalgamation by the Condition Date.
8. Consent being given by the lessor of each of the Leased Business Premises to the deemed assignment arising from the Amalgamation.
9. Before 5pm (NZDT) on the Working Date immediately prior to the Effective Date, the absence of a Material Adverse Change having occurred.