



TAKEOVERS PANEL
TE PAE WHITIMANA

**Enforceable Undertakings
Given by Andrew Graeme Lowe Under Section 31T of the
Takeovers Act 1993**

Andrew Graeme Lowe hereby undertakes to the Takeovers Panel (the **Panel**) as set out below (the **Undertakings**). The Panel in turn accepts the Undertakings.

These Undertakings are given under section 31T of the Takeovers Act 1993 (the **Act**).

Background

- A** On 18 March 2022, Southern Lamb Investments Limited (**Southern Lamb**) made an offer (the **Offer**) to acquire all of the shares in Blue Sky Meats (N.Z.) Limited (**Blue Sky**) at \$3 per share.
- B** Southern Lamb is owned by interests associated with Andrew Graeme Lowe and Scott O'Donnell.
- C** Prior to the Offer being made, Mr Lowe acquired a total of 28,312 shares in Blue Sky in three transactions. Specifically:
- I** on 15 October 2021, Mr Lowe became the registered holder of 1,750 shares (the **First Tranche Shares**) which he acquired at \$1.25 per share (this followed a trade on 7 October 2021);
 - II** on 15 October 2021, Mr Lowe became the registered holder of 9,562 shares (the **Second Tranche Shares**) which he acquired at \$1.35 per share (this followed a trade on 7 October 2021); and
 - III** on 8 November 2021, Mr Lowe became the registered holder of 17,000 shares (the **Third Tranche Shares**) which he acquired at \$1.35 per share (this followed a trade on 26 October 2021),
- (together, the **Pre-Offer Acquisitions**).
- D** Prior to the first of the Pre-Offer Acquisitions:
- I** an associate of Mr Lowe, Andrew Lowe Trustee Company No. 2 Limited as trustee of The Andrew Lowe No. 2 Trust (the **Lowe Trust**) held approximately 18% of the voting rights in Blue Sky;
 - II** an associate of Mr O'Donnell, H. W. Richardson Group Limited (**Richardson's**) held approximately 17% of the voting rights in Blue Sky; and
 - III** accordingly, the Lowe Trust and Richardson's held, in aggregate, approximately 35% of the voting rights in Blue Sky.

- E** If Mr Lowe was associated with Richardson’s at the time of the Pre-Offer Acquisitions (given his association with the Lowe Trust), each of the Pre-Offer Acquisitions would have failed to comply with rule 6(1)(a) of the Code.
- F** A division of the Panel met to consider the matter on 20 April 2022. The Panel concluded that there was a reasonable possibility that there was an association between Mr Lowe and Richardson’s at the time of each of the Pre-Offer Acquisitions. Therefore, there was a reasonable possibility that Mr Lowe may not have acted in accordance with the Code. Accordingly, the Panel may hold a meeting under section 32 of the Act for the purpose of determining whether to exercise its powers under that section.
- G** Notwithstanding the Panel’s conclusions, Mr Lowe denies that the Pre-Offer Acquisitions breached the Code.
- H** However, Mr Lowe has agreed to pay the difference between the price paid for the shares acquired under the Pre-Offer Acquisitions and the \$3 Offer price to each of the persons from whom Mr Lowe acquired those shares.
- I** Mr Lowe has entered into this undertaking in order to commit to make the payment referred to in paragraph H above and to set out the terms and conditions on which such payment shall be made.

Undertakings

1 Definitions

Unless the context otherwise requires:

- (a) any term or expression that is defined in the Act or the Code and used, but not defined, in these Undertakings has the same meaning as in the Act or the Code; and
- (b) any capitalised term defined in these Undertakings (including in the Background) has that meaning throughout these Undertakings.

2 Payments

- (1) Andrew Graeme Lowe shall, before 5pm on 27 April 2022, pay:
 - (a) \$3,062.50 to the person from whom he acquired the First Tranche Shares;
 - (b) \$15,777.30 to the person from whom he acquired the Second Tranche Shares; and
 - (c) \$28,050.00 to the person from whom he acquired the Third Tranche Shares.
- (2) The payments referred to in clause 2(1) above shall be paid by real-time electronic direct bank transfer of cleared and immediately available funds (without counter-claim or set-off).
- (3) Immediately after making the payments referred to in this clause 2, Andrew Graeme Lowe shall provide to the Panel (from the bank through which the payments were made) written evidence:
 - (a) that the payments have been made; and
 - (b) in respect of each payment, the date on which the payment was made, the name of the payee and the bank account to which payment was made.

3 Withdrawal and variation

These Undertakings may only be varied or withdrawn with the prior written consent of the Panel.

Execution

Signed by Andrew Graeme Lowe: [signed]

Signature

21/04/2022

Date

Signed for and on behalf of the
Takeovers Panel by Andrew
Hudson, Chief Executive:

[signed]

Signature

21/04/2022

Date