

## Disclosure of movement of 1% or more in substantial holding or change in nature of relevant interest, or both

*Sections 277 and 278, Financial Markets Conduct Act 2013*

**To:** NZX Limited

and

**To:** EBOS Group Limited ("**EBOS**")

Relevant event being disclosed: Change in nature of relevant interest

Date of relevant event: 18 November 2019

Date this disclosure made: 19 November 2019

Date last disclosure made: 5 July 2013

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

Full name(s): Sybos Holdings Pte Limited ("**Sybos**"). Sybos remains, indirectly, a wholly-owned subsidiary of The Zuellig Group Inc., being the holding company that gave the last disclosure on behalf of the Zuellig group of companies.

### **Summary of substantial holding**

Class of quoted voting products: Ordinary shares in EBOS (NZX, ASX: EBO)

Summary for Sybos

For **this** disclosure,—

- (a) total number held in class: 60,525,721
- (b) total in class: 162,122,680
- (c) total percentage held in class: 37.333%

For **last** disclosure,—

- (a) total number held in class: 58,645,710
- (b) total in class: 146,614,274
- (c) total percentage held in class: 40.000%

### **Details of transactions and events giving rise to relevant event**

Details of the transactions or other events requiring disclosure:

On 18 November 2019, Sybos entered into a block trade agreement (the "**Agreement**") with UBS New Zealand Limited ("**UBS**") under which Sybos appointed UBS to manage and underwrite the sale of 15,000,000 ordinary shares in EBOS currently held by Sybos for NZ\$22.50 per share (or NZ\$337,500,000 in aggregate). Under the terms of the Agreement, Sybos undertakes in favour of UBS to not deal in its remaining shares in EBOS for a period

of six months from the date of the Agreement (as set out in full in clause 2 of the Agreement). A copy of the Agreement is **attached** to this notice. As a consequence of the Agreement, there is a qualification on the power of Sybos to dispose of, or control the disposal of, such shares. Settlement of this sale is expected to occur on 21 November 2019.

**Details after relevant event**

Details for Sybos

Nature of relevant interest(s): Registered holder and beneficial owner of securities

For that relevant interest,—

- (a) number held in class: 60,525,721
- (b) percentage held in class: 37.333%
- (c) current registered holder(s): Sybos
- (d) registered holder(s) once transfers are registered: N/A

**Additional information**

Address(es) of substantial product holder(s): C/- Russell McVeagh, Level 30 Vero Centre, 48 Shortland Street, Auckland 1010, New Zealand

Contact details:

Name: David Raudkivi, Russell McVeagh  
Phone: 09 367 8000  
Email: david.raudkivi@russellmcveagh.com

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: UBS New Zealand Limited

**Certification**

I, Marshall Byres, director of Sybos, 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.

## CONFIDENTIAL

18 November 2019

The Board of Directors  
Sybos Holdings Pte Limited  
360 Orchard Road #10-02  
International Building  
Singapore 238869

Dear Directors

## UNDERWRITTEN SALE OF SECURITIES IN EBOS GROUP LIMITED

### INTRODUCTION

- A. This letter agreement sets out the terms and conditions upon which Sybos Holdings Pte Limited (the "**Seller**") engages UBS New Zealand Limited (the "**Underwriter**") to underwrite, sell and manage the disposal of 15,000,000 fully paid ordinary shares in EBOS Group Limited (the "**Company**") (the "**Sale Shares**" and the "**Sale**").
- B. The Underwriter (itself and/or through any of its Affiliates) agrees to underwrite, sell and manage the disposal of the Sale Shares in accordance with the terms of this Agreement.

### AGREEMENT

#### 1. UNDERWRITTEN SALE OF SALE SHARES

##### 1.1 Bookbuild and underwrite:

- (a) The Seller agrees to sell the Sale Shares in accordance with this Agreement and the timetable set out in Schedule 1 (the "**Timetable**"). The Timetable may only be amended by the Seller with the agreement of the Underwriter.
- (b) The Underwriter agrees to manage the sale of the Sale Shares by using its best endeavours to procure purchasers for the Sale Shares at a price of NZ\$22.50 per Sale Share (being the "**Underwritten Price**") by conducting a bookbuild process (the "**Bookbuild**") in accordance with the Timetable.
- (c) The Underwriter agrees to underwrite and guarantee the sale of any Sale Shares not taken up as part of the Bookbuild under clause 1.1(b) as at the Bookbuild Closing Time (as set out in the Timetable) (the "**Shortfall Shares**") by purchasing each of the Shortfall Shares from the Seller at the Underwritten Price.
- (d) The Seller's prior written approval is required in respect of any Bloomberg and any other marketing material for the Bookbuild, such approval not to be unreasonably withheld or delayed.

##### 1.2 Manner of Sale: The Underwriter will conduct the Sale by way of an offer only:

- (a) in accordance with all applicable laws in any jurisdiction including the Financial Markets Conduct Act 2013 (the "**FMCA**"), the Takeovers Code Approval Order

2000 (the "**Takeovers Code**"), the Overseas Investment Act 2005 (the "**OIA**"), the Corporations Act 2001 (Cth) (the "**Corporations Act**") and the Foreign Acquisitions and Takeovers Act 1975 (Cth) (the "**FATA**"), provided that the Underwriter will not be in breach of this sub-paragraph (a) to the extent any breach is caused by an act or omission by the Seller, or its Affiliates, officers, employees or representatives which constitutes a breach by the Seller of its representations and warranties in clause 6.1 and undertaking in clause 5.1;

- (b) to persons, and by way of transactions, in New Zealand, that do not need a product disclosure statement or other disclosure document (including under the FMCA) or any other lodgement, delivery, registration or filing with, or approval by, a governmental agency, provided that the Seller has taken (and has endeavoured to procure that the Company take) all necessary steps to ensure that the Seller has the benefit of the exclusion for offers of financial products set out in clause 19 of Schedule 1 of the FMCA;
- (c) to persons, and by way of transactions, in Australia, that do not need a prospectus or other disclosure document (including disclosure under Part 6D.2 of the Corporations Act or any other lodgement, delivery, registration or filing with, or approval by, a government agency;
- (d) if in the United States, to:
  - (i) persons that the Underwriter reasonably believes are "Qualified Institutional Buyers" as defined in Rule 144A under the U.S. Securities Act of 1933, as amended (the "**U.S. Securities Act**") ("**QIBs**") in transactions exempt from the registration requirements of the U.S. Securities Act pursuant to Rule 144A under the U.S. Securities Act ("**Rule 144A**"); or
  - (ii) dealers or other professional fiduciaries organised, incorporated or (if an individual) resident in the United States that are acting for an account (other than an estate or trust) held for the benefit or account of persons that are not "U.S. persons" (as defined in Rule 902(k) under the U.S. Securities Act) (being "**U.S. Persons**") for which they have, and are exercising, investment discretion, within the meaning of Rule 902(k)(2)(i) of Regulation S (an "**Eligible U.S. Fund Manager**"), in reliance on, and in compliance with, Regulation S under the U.S. Securities Act ("**Regulation S**"); and
- (e) if outside Australia, New Zealand and the United States, to persons, and by way of transactions, to whom offers for sale of securities may lawfully be made without requiring the preparation, delivery, lodgement or filing of any prospectus or other disclosure document or any other lodgement, registration or filing with, or approval by, a government agency (other than any such requirement with which Seller, in its sole and absolute discretion, is willing to comply).

1.3 **Allocation of Sale Shares:** The Underwriter will, in consultation with the Seller, determine the allocation of the Sale Shares to persons who have bid for the Sale shares by no later than the Trade Date (as set out in the Timetable in Schedule 1).

- 1.4 **Investor representations:** The Underwriter must require any investor that purchases the Sale Shares to confirm, including through deemed representations and warranties, among other things:
- (a) its status as an investor meeting the requirements of clause 1.2; and
  - (b) that they are able to make the relevant purchase in compliance with all relevant laws and regulations (including the insider trading provisions of the FMCA and the Corporations Act, the Takeovers Code, the OIA and the FATA).
- 1.5 **Effecting of Sale and settlement:** The Sale (other than in respect of the Restricted Shares as defined in clause 2.1) shall be effected on the Trade Date by way of one more crossings or special crossings at the Underwritten Price, with settlement to follow on a T+2 basis in accordance with the New Zealand Clearing Limited's Clearing and Settlement Rules and, in respect of the settlement of Sale Shares on ASX, the ASX Settlement Rules and ASX Operating Rules (the "**Settlement Date**"). Subject to this clause 1 and clause 9:
- (a) by 9.00am on the Business Day before the Settlement Date (i.e. on a T+1 basis). the Seller shall ensure that all of the Sale Shares are made available to, or placed in an account nominated by, the Underwriter to facilitate settlement on a delivery versus payment basis (and strictly on the basis that such Sale Shares are held by the Underwriter for the benefit of the Seller pending Settlement); and
  - (b) on the Settlement Date, the Underwriter shall make payment to the Seller of an amount equal to
    - (i) the Underwritten Price multiplied by the number of Sale Shares but excluding the number of Restricted Shares (if any); **less**
    - (ii) any fees payable under clause 4,by transfer to the Seller's account for value (in cleared funds in New Zealand dollars) against delivery of all Sale Shares (other than any Restricted Shares). For clarity, the Underwriter will effect payment to the Seller in respect of the Restricted Shares on the Settlement Date at the time and in the manner contemplated by clause 2.
- 1.6 **Cleansing Notice in respect of the Sale:** The Seller must lodge, and must procure that the Company lodges, with ASX a notice under section 708A(5)(e) of the Corporations Act in respect of the Sale Shares as soon as reasonably possible (and in any event within 5 Business Days) after each sale of Sale Shares in accordance with this Agreement and must otherwise meet and comply with all requirements of section 708A of the Corporations Act necessary to permit, to the extent allowed by section 708A, the secondary sale of the Sale Shares without the requirement for a prospectus or other disclosure document.
- 1.7 **Condition precedent to Underwriting:** Clause 1.1(c) of this Agreement (and the obligation of the Underwriter to purchase any Shortfall Shares) is conditional on the Company providing a notice to NZX Limited ("**NZX**") in accordance with clause 20 of Schedule 8 to the Financial Markets Conduct Regulations 2014 in a form and substance reasonably acceptable to the Underwriter prior to the Bookbuild Closing Time (as set out in the Timetable in Schedule 1). This will be deemed to be in a form and substance acceptable to the Underwriter if is provided and made, respectively, in all material respects in the form and substance agreed by the Underwriter in writing prior to the Underwriter entering into this Agreement. Unless

agreed otherwise, this Agreement, other than accrued rights and provisions expressed to survive completion, will terminate on the failure to satisfy the condition in this clause.

1.8 **Satisfaction of condition precedent:** The Seller will use reasonable endeavours to satisfy the condition precedent contained in clause 1.7.

1.9 **US Opinion:** The Seller will procure that its US counsel provides the Underwriter with an opinion by 9.00am on the Settlement Date and dated as of that date and expressed to be for its benefit to the effect that no registration of the Sale Shares is required under the U.S. Securities Act, for the initial offer, sale and delivery of the Sale Shares, and the initial resale of the Sale Shares by the Underwriter on the Settlement Date, in each case in the manner contemplated by this Agreement.

1.10 **Interest:**

- (a) If, for any reason other than the non-performance or breach by the Seller of its obligations, undertakings or warranties in this Agreement, the Underwriter has not paid, or procured the payment of, any amount payable under this Agreement, then interest will accrue at the rate of 5% per annum on any such unpaid amount, calculated on a daily basis from and including the due date for payment until the unpaid amount is paid in full.
- (b) The right of the Seller to require payment of interest under this clause does not limit any other right or remedy of the Seller.

## 2. RESTRICTED SHARES

2.1 **Restricted Shares:** Notwithstanding anything else in this Agreement, where the number of Shortfall Shares exceeds the maximum number of the Sale Shares that the Underwriter can acquire without the Underwriter or any of its related bodies corporate or Affiliates:

- (a) being required to obtain consent under the OIA (having regard to any exemptions available to the Underwriter that would mean that there is no need to seek consent under the OIA); or
- (b) being required under the FATA to notify the Australian Federal Treasurer (through the Australian Foreign Investment Review Board ("**FIRB**")) or to obtain a no objection notification,

(such excess Shortfall Shares being the "**Restricted Shares**"), then:

- (c) the Underwriter agrees to purchase the Restricted Shares on the terms of this clause 2, together with any rights, entitlements or other privileges associated with such securities;
- (d) completion of the sale and purchase of the Restricted Shares will be conditional upon the Underwriter obtaining all consents, no objection notifications, or exemptions required under the OIA or the FATA (as applicable) on terms and conditions acceptable to the Seller and Underwriter, acting reasonably (the "**OIA and FIRB Condition**"); and
- (e) on the Settlement Date, the Underwriter will pay to Seller, or as Seller directs, an amount equal to the Underwritten Price multiplied by the number of Restricted

Shares less any fees and expenses payable under clause 4 (to the extent not already recovered) by transfer to the account(s) nominated by the Seller (in cleared funds) (such payment being the "**Advance**"). For clarity, the Advance will be paid contemporaneously with the payment referred to in clause 1.5(b), and the Underwriter is required to pay the Advance even though the OIA and FIRB Condition may not be satisfied or waived on or before the Settlement Date.

2.2 **Waiver:** The OIA and FIRB Condition has been inserted for the benefit of each of the Underwriter and the Seller and it may only be waived (in whole or in part) by agreement between the parties where permitted by law.

2.3 **Settlement of Restricted Shares:** Where:

(a) the OIA and FIRB Condition is satisfied or waived (in whole or part) so that any of the Restricted Shares may be transferred without breach of the OIA, the FATA or FIRB policy; or

(b) the Underwriter otherwise procures a purchaser for any of the Restricted Shares,

the Underwriter shall immediately inform the Seller and the Seller shall procure the transfer of the relevant Restricted Shares (and any rights (including in respect of distributions) accrued or declared on those Restricted Shares after the Settlement Date, but net of any taxes paid or payable by the Seller in respect of such distributions or other rights held by the Seller (and only if the Seller provides to the Underwriter a copy of all records relating to such taxes at the time of transfer)) to the Underwriter or its nominee(s) on a T+2 basis (and in satisfaction of the Advance (or a pro-rata portion of the Advance if not all of the Restricted Shares are being transferred)), provided that any such nominee(s) are persons of the type described in clause 1.2 (with the date of each such transfer taking effect being the "**Restricted Shares Settlement Date**").

2.4 **Sale of Restricted Shares:** If the OIA and FIRB Condition has not been satisfied by the date which is 6 months after the Settlement Date or such later date as the parties agree (the "**End Date**"), then the obligations of the Underwriter in respect of any remaining Restricted Shares under clause 1.1(c) shall become immediately due and payable, and the Seller will be entitled to set off its obligations in respect of the remaining Advance, against the obligations of the Underwriter under clause 1.1(c) in respect of the underwrite of those Restricted Shares (and the parties agree that if it does so, this shall constitute good and effective discharge of each of the parties' obligations, to the extent of such set off) and must use all reasonable endeavours to sell the remaining Restricted Shares through the Underwriter as soon as reasonably practicable and will pay the net proceeds of such sale to the Underwriter.

2.5 **Voting rights:** While the Seller remains the registered holder of any Restricted Shares, it retains the right to vote those Restricted Shares.

### 3. MORATORIUM

3.1 The Seller represents, warrants and undertakes that it will not, unless otherwise waived or agree to by the Underwriter in writing, for a period of six months from the date of this Agreement (the "**Escrow Period**"), Deal in all or any of the fully paid ordinary shares held by it in the Company ("**Remaining Shares**") after settlement of the Sale of the Sale Shares pursuant to this Agreement, excluding:

- (a) a repurchase (whether by buy-back, reduction of capital or other means) of Remaining Shares by the Company;
- (b) any acceptance by the Seller of a takeover offer for the Company in accordance with the Takeovers Code or transfer pursuant to a scheme of arrangement under Part 15 of the Companies Act 1993 (including entry into any pre-bid agreement permitted by the Takeovers Code in advance of a takeover offer);
- (c) a sale, transfer or disposal to a third party where it is a condition of the sale that the third party announce an intention to acquire, or propose a transaction to acquire, greater than 50% of the ordinary shares of the Company;
- (d) the sale of any Restricted Shares in accordance with the terms of this Agreement or
- (e) a sale, transfer or disposal to an Affiliate of the Seller (or person holding on behalf of an Affiliate or the Seller) that is subject to a representation, warranty or undertaking on substantially the same terms as this clause 3.1 in respect of the Remaining Shares sold, transferred or disposed. For the avoidance of doubt, any agreement by the Affiliate will be in respect of the Escrow Period.

3.2 Each party to this Agreement acknowledges that the representation, warranty and undertaking in clause 3.1 is not intended to and does not give the Underwriter any power to dispose of, or control the disposal of, the Remaining Shares or any power to control any rights (including any voting rights) attaching to any of the Remaining Shares, and to the extent that the Underwriter would be in breach of applicable laws to have such power, a breach of the representation, warranty and undertaking those circumstances will only give rise to a right to damages and the parties acknowledge that, in such circumstances, damages are an adequate remedy for a breach of the representation, warranty and undertaking.

3.3 Each party to this Agreement acknowledges that the representation, warranty and undertaking in clause 3.1 has been provided to only address the financial consequences of the Seller disposing of, or dealing with, any Remaining Shares held by it. Each party to this Agreement acknowledges that the Underwriter is not entitled to a remedy of specific performance for a breach of the representation, warranty and undertaking in clause 3.1.

3.4 For the purposes of this clause 3, "**Deal**" in respect of the "Remaining Shares" means:

- (a) sell, assign, transfer or otherwise dispose of;
- (b) agree to offer to sell, assign, transfer or otherwise dispose of;
- (c) enter into any option which, if exercised (whether such exercise is subject to conditions or otherwise), enables or requires the Seller to sell, assign, transfer or otherwise dispose of; or
- (d) decrease or agree to decrease an economic interest in,

the Remaining Shares.

#### **4. FEES**

4.1 **Fees:** In consideration of performing its obligations under this Agreement the Underwriter shall be entitled to such fees as the parties agree.



## 5. UNDERTAKINGS

5.1 The Seller undertakes to the Underwriter that it will not, prior to the Settlement Date, commit, be involved in or acquiesce in any activity that breaches:

- (a) the FMCA, the Corporations Act, the Takeovers Code or any other applicable laws;
- (b) the Listing Rules; and
- (c) any legal binding requirement of the Financial Markets Authority (the "**FMA**"), the NZX, the ASX or the Australian Securities and Investments Commission ("**ASIC**"),

in each case to the extent such breach impacts or could reasonably be expected to impact on the sale of the Sale Shares, this Agreement or the Company.

## 6. REPRESENTATIONS AND WARRANTIES

6.1 **Representations and warranties by Seller:** As at the date of this Agreement and on each day until and including the Settlement Date (or, where clause 2 applies, until the earlier of the Restricted Shares Settlement Date and three Business Days after the End Date), the Seller represents and warrants to the Underwriter that:

- (a) **(body corporate)** the Seller is a company limited by shares under the laws of the place of its incorporation;
- (b) **(capacity)** the Seller has full legal capacity and power to enter into this Agreement and to carry out, or to procure the carrying out of, the transactions that this Agreement contemplates;
- (c) **(authority)** the Seller has taken or procured, or will have taken or procured by the relevant time, all corporate action that is necessary or desirable to authorise its entry into this Agreement and its entry into, and the entry into by its relevant subsidiaries of the transactions that this Agreement contemplates;
- (d) **(agreement effective)** this Agreement constitutes its legal, valid and binding obligations, enforceable against the Seller in accordance with its terms subject to any necessary stamping or registration;
- (e) **(ownership, encumbrances)** the Seller will transfer the full legal and beneficial ownership of the Sale Shares free and clear of all liens, charges, security interests, claims, equities and pre-emptive rights, subject to registration of the transferee(s) in the register of shareholders of the Company;
- (f) **(Sale Shares)** following the Sale, the Sale Shares will rank equally in all respects with all other outstanding ordinary shares of the Company, including their entitlement to dividends;
- (g) **(power to sell)** the Seller has the corporate authority and power to sell the Sale Shares under this Agreement and no person has a conflicting right, whether contingent or otherwise, to purchase or to be offered for purchase the Sale Shares;
- (h) **(NZX listing)** the Sale Shares are quoted on the official list of the NZX Main Board and ASX;

- (i) **(no insider trading offence)** the sale of the Sale Shares will not constitute a violation by Seller (or its Affiliates) of applicable insider trading laws;
- (j) **(no stabilisation or manipulation)** neither the Seller nor any of its Affiliates has taken or will take, directly or indirectly, any action designed to, or that might reasonably be expected to, cause or result in the stabilisation or manipulation of the price of the Sale Shares in violation of any applicable law;
- (k) **(no general solicitation or general advertising)** none of the Seller, any of its Affiliates or any person acting on behalf of any of them (other than the Underwriter or its Affiliates or any person acting on behalf of any of them, as to whom the Seller makes no representation) has offered or sold, or will offer or sell, any of the Sale Shares in the United States using any form of "general solicitation" or "general advertising" (within the meaning of Rule 502(c) under the U.S. Securities Act) or in any manner involving a public offering in the United States within the meaning of Section 4(a)(2) of the U.S. Securities Act;
- (l) **(no directed selling efforts)** with respect to those Sale Shares offered and sold in reliance on Regulation S, none of the Seller, any of its Affiliates, or any person acting on behalf of any of them (other than the Underwriter or its Affiliates or any person acting on behalf of any of them, as to whom no representation or warranty is made), has, directly or indirectly, engaged or will engage in any "directed selling efforts" within the meaning of Rule 902(c) under the U.S. Securities Act;
- (m) **(foreign private issuer and no substantial U.S. market interest)** to the best of the Seller's knowledge, the Company is a 'foreign private issuer' as defined in Rule 405 under the U.S. Securities Act and there is no 'substantial U.S. market interest' (as defined in Rule 902(j) under the U.S. Securities Act) in the Sale Shares or any security of the same class or series as the Sale Shares;
- (n) **(no integrated offers)** none of the Seller, any of its Affiliates or any person acting on behalf of any of them (other than the Underwriter or its Affiliates or any person acting on behalf of any of them, as to whom no representation or warranty is made), has solicited any offer to buy, offered to sell or sold, and none of them will solicit any offer to buy, offer to sell or sell, in the United States any security which could be integrated with the sale of the Sale Shares in a manner that would require the offer and sale of the Sale Shares to be registered under the U.S. Securities Act;
- (o) **(no registration required)** subject to the accuracy of, and compliance with, the representations and warranties of the Underwriter in paragraphs (l), (n) (o), (p) and (q), of clause 6.2, it is not necessary in connection with the offer, sale and delivery of the Sale Shares to register under the U.S. Securities Act the initial offer, sale and delivery of the Sale Shares, or the initial resale of any Sale Shares on the Settlement Date by the Underwriter pursuant to its obligations under this Agreement, in each case in the manner contemplated in this Agreement, it being understood that the Seller makes no representation or warranty about any subsequent resale of the Sale Shares under the U.S. Securities Act;
- (p) **(not an investment company)** to the best of the Seller's knowledge, the Company is not, and immediately after giving effect to the offering and sale of the Sale Shares will not be, required to register as an "investment company" under U.S. Investment Company Act of 1940;

- (q) **(144A eligibility)** to the best of the Seller's knowledge, the Sale Shares are eligible for resale pursuant to Rule 144A and are not of the same class as securities listed on a national securities exchange registered under Section 6 of the U.S. Securities Exchange Act of 1934, as amended (the "**Exchange Act**") or quoted in a U.S. automated interdealer quotation system;
- (r) **(Rule 12g3-2(b) status)** to the best of the Seller's knowledge, the Company is exempt from reporting under Section 13 or 15(d) of the Exchange Act pursuant to Rule 12g3-2(b) thereunder;
- (s) **(OFAC)** neither the Seller nor, to the best of its knowledge after due enquiry, any director, officer, agent, employee or Affiliate or other person acting on behalf of the Seller is currently subject to any sanctions administered or enforced by the Office of Foreign Assets Control of the US Department of the Treasury, the United Nations Security Council, Her Majesty's Treasury, the European Union or any of its Member States, or other relevant sanctions authority ("**Sanctions**"), or located, organised or resident in a country or territory that is the subject of Sanctions; and the Seller will not directly or indirectly use the proceeds of the Sale, or lend, contribute or otherwise make available these proceeds to any subsidiary, joint venture partner or other person or entity, to fund or facilitate any activities of any person or entity or in any country or territory that is subject to any Sanctions, or in any other manner that will result in a violation of Sanctions by any person participating in the Sale (whether as an underwriter, placing agent, investor, adviser or otherwise);
- (t) **(anti-money laundering)** the operations of the Seller are and have been conducted at all times in compliance with all financial record keeping and reporting requirements imposed by law or regulation and in compliance with the money laundering and proceeds of crime statutes of all applicable jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any government agency (collectively, the "**Money Laundering Laws**") to the extent that they apply to the Seller and no action, suit or proceeding by or before any court or government agency, authority or body or any arbitrator involving the Vendor or any of its Affiliates with respect to the Money Laundering Laws is pending or threatened; and
- (u) **(no bribery)** neither the Seller or, to the best of its knowledge after due enquiry, any director, officer, employee, Affiliate or other person acting on behalf of the Seller has (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds, or (iii) made any bribe, rebate, payoff, influence payment, kickback or other unlawful payment, in each case, in violation of any applicable law, including, but not limited to the United States Foreign Corrupt Practices Act of 1977 if it is applicable.

For the purposes of the representations and warranties of the Seller above, the term "Affiliate" does not include the Company or any Affiliate of the Company that the Company controls.

**6.2 Representations and warranties of the Underwriter:** As at the date of this Agreement and on each day until and including the Settlement Date (or, where clause 2 applies, until the earlier of the Restricted Shares Settlement Date and three Business Days after the End Date), the Underwriter represents and warrants to the Seller that:

- (a) **(body corporate)** the Underwriter is a company limited by shares under the laws of the place of its incorporation;
- (b) **(capacity)** the Underwriter has full legal capacity and power to enter into this Agreement and to carry out the transactions that this Agreement contemplates;
- (c) **(authority)** the Underwriter has taken all corporate action that is necessary or desirable to authorise its entry into this Agreement and it carrying out the transactions that this Agreement contemplates;
- (d) **(agreement effective)** this Agreement constitutes its legal, valid and binding obligation, enforceable against the Underwriter in accordance with its terms;
- (e) **(soundings)** the Underwriter has not communicated the possible Sale to any potential investor or Bookbuild participant prior to entry into this Agreement;
- (f) **(status)** the Underwriter is a not a person to whom disclosure needs to be made under the FMCA or any other applicable laws (including the Corporation Act);
- (g) **(Takeovers Code matters)** the Underwriter (or its relevant Affiliate) is a professional underwriter (in terms of the Takeovers Code (Professional Underwriters) Exemption Notice 2004) and is entering into this Agreement in order to earn underwriting fees. Neither the Underwriter nor any Affiliate of the Underwriter has a collateral purpose or intention, in respect of the Underwriter's entry into this Agreement, of enabling the Underwriter or any of its Affiliates to increase their control percentage in the Company. Immediately before the Underwriter's entry into this Agreement, the aggregate of the control percentages of the Underwriter and its Affiliates and other associates did not exceed 5% of the voting rights in the Company;
- (h) **(liability for resales)** the Underwriter acknowledges that any resales by it (or any of its Affiliates) of Sale Shares will be arranged by it (or its Affiliate) as principal and independently of the Seller, and it will ensure that any resales in any jurisdiction comply with all applicable laws and that the manner of any resales is such that the Seller will not be liable in respect of such resales under the laws of any relevant jurisdiction, whether as a promoter or otherwise;
- (i) **(no reliance)** it has made its own independent enquiry and investigations in relation to the Sale Shares and the Company and has entered into this Agreement in reliance solely on its own judgment and not in reliance on any representations or conduct of the Seller or any of its representatives (other than those expressly set out in this Agreement);
- (j) **(no stabilisation or manipulation)** neither the Underwriter nor any of its Affiliates has taken or will take, directly or indirectly, any action designed to, or that might reasonably be expected to, cause or result in the stabilisation or manipulation of the price of the Sale Shares in violation of any applicable law;
- (k) **(compliance)** the Underwriter and its Affiliates will perform their obligations under this Agreement, and the Sale will be conducted by them, in accordance with all applicable laws and regulations in any relevant jurisdiction, provided that it shall not be in breach of this warranty to the extent any breach is caused by any act or omission which constitutes a breach by the Seller of its representations, warranties and undertakings in clause 6.1;

- (l) **(no directed selling efforts)** with respect to those Sale Shares to be offered and sold in reliance on Regulation S, none of the Underwriter, any of its Affiliates or any person acting on behalf of any of them has engaged or will engage in any "directed selling efforts" within the meaning of Rule 902(c) of the U.S. Securities Act;
- (m) **(no registration)** the Underwriter acknowledges that the Sale Shares have not been and will not be registered under the U.S. Securities Act and may not be offered or sold in the United States except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the U.S. Securities Act and applicable United States state securities laws;
- (n) **(no general solicitation or general advertising)** none of the Underwriter, its Affiliates or any person acting on behalf of any of them has solicited offers for or offered to sell or sold, and none of them will solicit offers for, or offer to sell or sell, the Sale Shares in the United States using any form of "general solicitation" or "general advertising" within the meaning of Rule 502(c) under the U.S. Securities Act or in any manner involving a public offering in the United States within the meaning of Section 4(a)(2) of the U.S. Securities Act;
- (o) **(broker-dealer affiliates)** all offers and sales of the Sale Shares in the United States by the Underwriter and any of its Affiliates will be effected through its U.S. registered broker dealer Affiliate;
- (p) **(U.S. selling restrictions)** the Underwriter, its Affiliates and any person acting on behalf of any of them has offered and sold the Sale Shares, and will offer and sell the Sale Shares:
  - (i) in the United States, solely to (A) persons that it reasonably believes to be QIBs in transactions exempt from the registration requirements of the U.S. Securities Act pursuant to Rule 144A thereunder, or (B) Eligible U.S. Fund Managers, in reliance on Regulation S; and
  - (ii) outside the United States in "offshore transactions" (as defined in Rule 902(h) under the U.S. Securities Act) in reliance on Regulation S,

provided that the Restricted Shares may only be offered and sold in "offshore transactions" (as defined in Rule 902(h) under the U.S. Securities Act) in reliance on Regulation S, including in regular brokered transactions on the NZX where neither the Underwriter nor any person acting on its behalf knows, or has reason to know, that the sale has been pre-arranged with, or the purchaser is, a person in the United States; and
- (q) **(accredited investor or outside the United States)** the Underwriter is an institutional accredited investor within the meaning of Rule 501(a)(1), (2), (3) or (7) under the U.S. Securities Act or it is not in the United States.

6.3 **Reliance:** Each party giving a representation and warranty acknowledges that each other party has relied on the above representations and warranties in entering into this Agreement and will continue to rely on them in performing its obligations under this Agreement.

6.4 **Notification:** Each party agrees that it will tell the other party promptly upon becoming aware of any of the following occurring prior to the completion of the sale of the Sale Shares:

- (a) any material change affecting any of the representations and warranties in this clause; or
- (b) any of the representations or warranties in this clause becoming materially untrue or materially incorrect.

## 7. INDEMNITY

7.1 **Indemnified parties:** Subject to clause 7.2 and 8.1, the Seller agrees with the Underwriter that it will keep the Underwriter and its related companies (as that term is defined in the Companies Act 1993 (NZ), read as if the expression "company" includes any body corporate, wherever incorporated), and their respective directors, officers and employees ("**Indemnified Parties**") indemnified against any losses, damages, liabilities, costs, claims, actions and demands (including any reasonable expenses arising in connection therewith) ("**Losses**") to the extent that such Losses are incurred or made in connection with the Sale or as a result of a breach of this Agreement by Seller, including any breach of any of the above representations or warranties given by Seller, and will reimburse the Underwriter for all out of pocket costs, charges and expenses which its Indemnified Parties may reasonably pay or incur in connection with investigating, disputing or defending any such action, demand or claim for which it is indemnified under this Agreement.

7.2 **Limitation of indemnity:** The indemnity in clause 7.1 does not extend to, and is not to be taken as an indemnity against, any Losses of an Indemnified Party with respect to any damage to reputation or to the extent any Losses arise as result of:

- (a) any fraud, recklessness, wilful misconduct or negligence of any Indemnified Party, as determined by a court of competent jurisdiction;
- (b) any penalty or fine which any Indemnified Party is required to pay for any contravention of any law;
- (c) any amount in respect of which the indemnity would be illegal, void or unenforceable under any applicable law; or
- (d) any breach by the Underwriter of this Agreement, save to the extent such a breach resulted from an act or omission on the part of the Seller.

7.3 **Release:** The Seller agrees that no Indemnified Party will have any liability to the Seller, any of its related bodies corporate or Affiliates or any of their respective directors, officers, employees, advisers, representatives or agents or any of the Seller's security holders or creditors for any Loss suffered by any of them in relation to any event to which the indemnity in clause 7.1 relates, but provided that this release does not apply to the extent that any Losses result from the matters set out in clause 7.2(a) to (d).

7.4 **Notice by Underwriter:** The Underwriter will notify the Seller as soon as reasonably practicable of any proceeding being commenced, or any claim or action being made, against the Underwriter or any other Indemnified Party, which is reasonably likely to give rise to a claim against the Seller pursuant to the indemnity under clause 7.1. The failure of the Underwriter to notify the Seller pursuant to this clause 7.4 will not release the Seller from any obligation or liability which it may have pursuant to this Agreement except that, if the Underwriter's failure to notify results in a defence no longer being available to the Seller or a material increase in the amount payable by the Seller under the indemnity under clause 7.1, the amount payable to the Indemnified Person under the indemnity in clause 7.1 will be

reduced by the extent to which the Seller would suffer loss or damage as a consequence of that failure on the part of the Underwriter to notify the Seller.

- 7.5 **Settlement by Indemnified Party:** Neither the Seller nor an Indemnified Party may settle any action, demand or claim to which the indemnity in clause 7.1 relates without the prior written consent of the Seller, as applicable, such consent not to be unreasonably withheld.
- 7.6 **Continuity of indemnity:** The indemnity in clause 7.1 is a continuing obligation, separate and independent from the other obligations of the parties under this Agreement and survives termination or completion of this Agreement. It is not necessary for the Underwriter to incur expense or make payment before enforcing that indemnity.
- 7.7 **United States indemnity:** Notwithstanding the limitations on the indemnity in clause 7.2, such limitations shall not apply in respect of any action, demand or claim under U.S. Law (as defined below) to the extent that such Losses arise out of or are based upon any untrue statement or alleged untrue statement of a material fact in any information related to the Company made public by the Company on the NZX or the ASX on or prior to the Settlement Date or otherwise provided to one or more investors (either specifically or generally) by the Seller in connection with the Sale or arise out of or are based upon the omission or alleged omission of a material fact necessary in order to make the statements in any such information, taken together with the NZX, ASX and other public disclosures of the Company, in the light of the circumstances under which they were made, not misleading.

For the purposes of this clause 7.7, "**U.S. Law**" means all applicable laws, rules and regulations of the United States and any State or governmental authority or agency thereof or therein.

- 7.8 **Privity:** The parties agree that, for the purposes of Subpart 1 of Part 2 of the Contract and Commercial Law Act 2017, the indemnity in this clause 7 is intended to confer a benefit on, and be enforceable by, each Indemnified Party (provided that this Agreement may be varied by the parties to it without the consent of any Indemnified Party).

## 8. LIABILITY

- 8.1 **General underwriting losses excluded:** Under no circumstances will the Seller be liable for any Losses incurred or made by the Underwriter solely as a result of any resale of any Sale Shares acquired from the Seller pursuant to this Agreement.
- 8.2 **Excluded Persons:** Under no circumstances will any directors, officers, employees, managers or advisors of the Seller or any of its Affiliates (together the "**Excluded Persons**") be liable to the Underwriter or any other Indemnified Parties in relation to any matter arising directly or indirectly in connection with this Agreement or the Sale, except to the extent that such liability arises out of the fraud of any such Excluded Persons. The parties agree that, for the purposes of Subpart 1 of Part 2 of the Contract and Commercial Law Act 2017, this clause 8 is intended to confer a benefit on, and be enforceable by, each Excluded Person (provided that this Agreement may be varied by the parties to it without the consent of any Excluded Person).

## 9. EVENTS OF TERMINATION:

- 9.1 **Right of termination:** If any of the following events occur prior to 10.00am (New Zealand time) on the Trade Date (as set out in the Timetable) (or such earlier time as noted in the specific clause) (the "**Risk Period**"), then the Underwriter may terminate its obligations under

this Agreement without cost or liability to itself at any time before the expiry of Risk Period, by giving written notice to Seller:

- (a) **NZX actions:** NZX or ASX does any of the following:
  - (i) announces that the Company will be removed from the official list of the NZX Main Board or ASX or ordinary shares in the Company will be suspended from quotation (other than with the approval (not to be unreasonably withheld or delayed), or at the request, of the Underwriter);
  - (ii) removes the Company from the official list of the NZX Main Board or ASX; or
  - (iii) suspends the trading of ordinary shares in the Company for any period of time (excluding any trading halt put in place in connection with, or to facilitate, the Sale).
- (b) **FMA or ASIC inquiry:** The FMA or ASIC issues or threatens to issue proceedings in relation to the Sale or commences, or threatens to commence any inquiry or investigation in relation to the Sale (other than in respect of the actions of the Underwriter where such actions are not contemplated by this Agreement).
- (c) **Restricted actions:** The Company, on or prior to the Settlement Date, commits, is involved in or acquiesces in any activity, which breaches:
  - (i) its constitution;
  - (ii) the FMCA (other than as regards its continuous disclosure obligations), the Takeovers Code or the OIA;
  - (iii) any exemptions to the operation of the FMCA granted by the FMA in relation to the sale of the Sale Shares; or
  - (iv) any other applicable laws or regulations in New Zealand.
- (d) **Correction notice:** The Seller becomes required to give or gives a correcting notice under clause 21 of Schedule 8 of the Financial Markets Conduct Regulations 2014.
- (e) **Other termination events:** Any of the following occurs:
  - (i) **Banking moratorium:** A general moratorium on commercial banking activities in New Zealand, Australia, United States or the United Kingdom is declared by the relevant central banking authority in any of those countries, or there is a material disruption in commercial banking or security settlement or clearance services in any of those countries.
  - (ii) **Breach of Agreement:** The Seller is in default of any of the terms and conditions of this Agreement or breaches any representation or warranty given or made by it under this Agreement.

9.2 **Materiality:** No event listed in clause 9.1, entitles the Underwriter to exercise its termination rights unless, in the opinion of the Underwriter, it:



- (a) has, or would reasonably be expected to have, a material adverse effect on:
  - (i) the willingness of persons to purchase the Sale Shares; or
  - (ii) the price at which ordinary shares in the Company are sold on the NZX Main Board or the ASX; or
- (b) would reasonably be expected to give rise to a liability of the Underwriter under the FMCA, the Corporations Act or any other applicable law.

9.3 **Underwriter Affiliates:** The Seller acknowledges that the Underwriter may, and may by law be required to, perform its obligations under this Agreement in conjunction with, or through, its Affiliates (including if required for licensing or regulatory purposes).

9.4 **Termination by the Seller:** If, at any time during the Risk Period, the Underwriter or any of its Affiliates is in default of any provision of this Agreement or breaches any representation, warranty or undertaking given or made by it under this Agreement at any time prior to the allocation of the Sale Shares to transferee(s), then the Seller may at any time before expiry of the Risk Period by giving written notice to the Underwriter immediately terminate this Agreement in its entirety without cost or liability to itself including, for the avoidance of doubt, without obligation to pay any fees to the Underwriter.

9.5 **Materiality:** The Seller is not entitled to exercise its termination rights under clause 9.4 unless the relevant breach or default by the Underwriter or any of their Affiliates:

- (a) has, or would reasonably be expected to have, a material adverse effect on:
  - (i) the outcome or settlement of the Sale; or
  - (ii) the price at which the Sales Shares may be sold pursuant to the Sale; or
- (b) would reasonably be expected to give rise to a material liability of the Seller or any of its Affiliates under the FMCA, the Corporations Act or any other applicable law.

9.6 **Effect of termination:** Where, in accordance with this clause 9, a party terminates its obligations under this Agreement, then:

- (a) that termination is without prejudice to any entitlements or rights, including any right to be indemnified, that either party has accrued under the Agreement; and
- (b) no fees will be payable to the Underwriter.

## 10. ANNOUNCEMENTS

10.1 **Announcements:** Unless required by applicable law, a legal or regulatory authority or applicable listing rules, and except as required in relation to procedural announcements via Bloomberg, the prior written consent of Seller must be obtained prior to the Underwriter making any public release or public announcement in relation to the Sale prior to 60 Business Days after the date of this Agreement and such release or announcement must be in compliance with all applicable laws, including the securities laws of New Zealand, Australia, the United States and any other jurisdiction.

## 11. CONFIDENTIALITY

- 11.1 **Confidentiality:** Each party agrees to keep the terms and subject matter of this Agreement confidential, except:
- (a) where disclosure is required by applicable law, a legal or regulatory authority or applicable listing rules;
  - (b) disclosure is made to an adviser or to a person who must know for the purposes of this Agreement, on the basis that the adviser or person keeps the information confidential; or
  - (c) to a person to the extent reasonably necessary in connection with any actual or potential claim or judicial or administrative process involving that party in relation to the Sale.

## 12. GST AND TAX MATTERS

- 12.1 **GST:** The fees payable to the Underwriter under clause 4 exclude GST. The Seller will pay to the Underwriter an amount equal to any GST that the Underwriter is liable to pay to any tax authority in respect of any supply by the Underwriter to the Seller under or in connection with this Agreement, at the same time as and in addition to the consideration otherwise payable by the Seller for that supply, provided that the Underwriter has issued to the Seller a valid GST tax invoice (in accordance with the applicable legislation) for that supply.
- 12.2 **Reimbursements:** If any amounts payable under or in connection with this Agreement are calculated by reference to a cost or expense incurred by a party ("**Relevant Expense**"), the amount of the Relevant Expense for the purposes of calculating the amount payable must be reduced by the amount of any input tax credit or other deduction from output tax to which the party is entitled in connection with that cost or expense.
- 12.3 **Defined terms:** In this clause 12, "**GST**" means goods and services tax chargeable in accordance with the Goods and Services Tax Act 1985 (New Zealand) or the A New Tax System (Goods and Services Tax) Act 1999 (Cth), as applicable. Where a party is a member of a GST group, any reference to that party in this clause 12 should be read as a reference to the representative member of that group.
- 12.4 **Taxes and other imposts:** Subject to clause 12.1, the Underwriter will be solely liable for payment of all taxes (including but not limited to corporate taxes, personal income tax, fringe benefits tax, payroll tax, stamp duty, withholding tax, PAYE, turnover tax, and any subcontractor's taxes) which may be imposed in relation to any fees payable under this Agreement.
- 12.5 **Withholding Taxes:** If the Seller is required in its opinion to withhold any amount in respect of tax from a payment to be made under this Agreement, it is entitled to do so and such withholding and payment to the relevant taxing authority will be a good discharge of its obligation to pay the relevant amount. In the event that the Seller pays an amount without withholding an amount in respect of tax, the Seller will be indemnified by the Underwriter for any loss suffered by it as a result of failing to withhold. The Underwriter will provide to the Seller any information reasonably requested by the Seller for the purposes of allowing the Seller to satisfy its withholding tax obligations.
- 12.6 **Lowest Price:** The parties agree that for the purposes of the financial arrangements rules in the Income Tax Act 2007:

- (a) the amounts payable under this Agreement are the lowest price that they would have agreed upon with respect to the property and services the subject of this Agreement at the time this Agreement was executed on the basis of payment in full at the time at which the first right in the property is to be transferred or the services provided;
- (b) the amounts payable under this Agreement are the value of the property and services the subject of this Agreement; and
- (c) they will compute their taxable income for the relevant period on the basis that the amounts payable under this Agreement includes no capitalised interest, and will file their tax returns accordingly.

For the purposes of this clause, the term "right" in the property shall bear the same meaning as the term "right" in section YA 1 of the Income Tax Act 2007.

### **13. MISCELLANEOUS**

- 13.1 **Entire agreement:** This Agreement and any agreement in relation to fees under clause 4 constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that matter.
- 13.2 **No contra preferentem:** No provision 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 that provision.
- 13.3 **Governing law:** This Agreement is governed by the laws of New Zealand. Each party submits to the non-exclusive jurisdiction of courts exercising jurisdiction in New Zealand, and waives any right to claim that those courts are an inconvenient forum.
- 13.4 **Severability:** Any provision of this Agreement, which is prohibited or unenforceable in any jurisdiction, will be ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That will not invalidate the remaining provisions of this Agreement nor affect the validity or enforceability of that provision in any other jurisdiction.
- 13.5 **Waiver and variation:** A provision of or right vested under this Agreement may not be:
  - (a) waived except in writing signed by the party granting the waiver; or
  - (b) varied except in writing signed by the parties. For clarity, this Agreement may be varied by the parties to it without the approval of any Indemnified Person or Excluded Person.
- 13.6 **No assignment:** No party may assign its rights or obligations under this Agreement without the prior written consent of the other party.
- 13.7 **Notices and agreement in writing:** Any notice approval, consent, agreement, waiver or other communication in connection with this Agreement must be in writing. Where this Agreement contemplates the form of any document being agreed in writing, such agreement may be by the exchange of emails recording that agreement.
- 13.8 **Affiliates:** In this Agreement, the term "**Affiliates**":

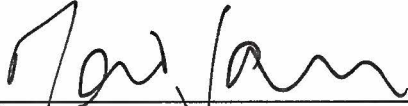
- (a) means in relation to a specified person, any other person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, a person; "control" (including the terms "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of securities by contract or agency or otherwise and the term "person" is deemed to include a partnership; and
- (b) is agreed to exclude the Company.

- 13.9 **Business Day:** In this Agreement, the term "**Business Day**" means a day on which NZX and ASX are open for trading in securities and banks are open for general banking business in Auckland, New Zealand, and any reference to a time is to a time in New Zealand unless otherwise stated.
- 13.10 **Listing Rules:** In this Agreement, the term "**Listing Rules**" means the listing rules of the NZX and, to the extent applicable, the ASX Listing Rules.
- 13.11 **Time is of the essence:** Time is of the essence in each party's performance of its obligations under this Agreement.
- 13.12 **Counterparts:** This Agreement may be executed in any number of counterparts, including by the exchange of pdf. copies. All counterparts together will be taken to constitute one agreement.

Yours sincerely,

*[Signature page follow]*


**EXECUTED** by **UBS New Zealand Limited** by its authorised signatories:



Signature of authorised signatory

David Lane

Name of authorised signatory



Signature of authorised signatory

JO-ANNE AVELLANO

Name of authorised signatory

*[Signature page to the block trade agreement]*

Accepted and agreed to as of the date of this Agreement:

**EXECUTED** by **Sybos Holdings Pte Limited** by its authorised signatory:

Marshall H. Bires  
Signature of director

MARSHALL H. BIRES  
Name of director

*[Signature page to the block trade agreement]*

## Schedule 1

### Timetable

<b>Key event</b>	<b>TIME (NZT)</b>	<b>Date</b>
Bookbuild Opening Time	6.10pm	18 November 2019
Bookbuild Closing Time	12.00am (or such earlier date and time as determined by the Underwriter, and during which time the Underwriter will also confirm allocations)	19 November 2019
Trade Date (T)	N/A	19 November 2019
Settlement Date (T + 2)	N/A	21 November 2019