

Lock-Up Agreement in relation to a Takeover Offer for Tegel Group Holdings Limited

PARTIES

Clarix Investments Pte. Ltd

Shareholder

Bounty Holdings New Zealand Limited

Offeror

Bounty Fresh Food, Inc.

Parent

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AGREEMENT dated 24 April 2018

PARTIES

Claris Investments Pte. Ltd
("Shareholder")

Bounty Holdings New Zealand Limited
("Offeror")

Bounty Fresh Food, Inc.
("Parent")

INTRODUCTION

- A. As at the date of this agreement, Tegel Group Holdings Limited ("TGH") has on issue the following Equity Securities:
- (a) 355,906,183 ordinary shares; and
 - (b) 893,650 performance rights granted under TGH's equity settled share based incentive plan for senior managers and eligible employees (the "Performance Rights").
- B. The Shareholder owns the Shares in TGH.
- C. The Offeror has agreed that, subject to the provisions of this agreement, it will make an Offer for all of the Equity Securities issued by TGH, and the Parent has agreed to cause that to occur.
- D. The Shareholder irrevocably agrees, subject to the provisions of this agreement, that it will accept the Offer in respect of the Shares.

AGREEMENT

1. INTERPRETATION

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

"**Business Day**" means a day on which registered banks are open for business in Auckland, New Zealand.

"**Confidential Information**" means any information (in any form) disclosed by one party to any other party or otherwise obtained by a party from or on behalf of any other party including discussions and negotiations between the parties leading to the entry into this agreement.

"**Equity Security**" has the meaning given to that term in rule 3(1) of the Takeovers Code.

"Final Price" means \$1.23 as varied in accordance with the Takeovers Code, and as may be adjusted in the manner contemplated in paragraph 2.2 of the Offer Terms to reflect the occurrence of any of the events in paragraphs 8.1, 8.4 and 8.6 of the Offer Terms between (and including) the Notice Date to (but excluding) the New Notice Date.

"Group" means TGH and each of its subsidiaries.

"New Notice Date" has the meaning given to that term in clause 6.3(b).

"New Offer" has the meaning given to that term in clause 6.3(a).

"Notice Date" means the date the Takeover Notice is sent to TGH in accordance with clause 2.1(a).

"Offer" means a full takeover offer under rule 8 of the Takeovers Code to be made by the Offeror on the Offer Terms.

"Offer Terms" means the terms and conditions in the form of the offer document set out in the Schedule, as may be amended in accordance with clause 2.3.

"OI Act" means the Overseas Investment Act 2005.

"OI Regulations" means the Overseas Investment Regulations 2005.

"OIO" has the meaning given to that term in clause 2.4(b)(i).

"OIO Application" has the meaning given to that term in clause 2.4(a).

"OIO Condition" means the condition referred to in paragraph 6.1(b) of the Offer Terms.

"Performance Rights" has the meaning given to that term in the Introduction.

"Permitted Dividend" has the meaning given to that term in paragraph 8.7 of the Offer Terms.

"Shares" means all of the ordinary shares in TGH held or controlled by the Shareholder being, as at the date of this agreement, 160,157,782 ordinary shares in TGH held by the Shareholder.

"Takeover Notice" means a takeover notice to be sent by the Offeror to TGH in compliance with rule 41 of the Takeovers Code and clause 2.1(a), and having attached thereto the Offer Terms and any other information required by the Takeovers Code.

"Takeovers Code" means the Takeovers Code approved by the Takeovers Code Approval Order 2000 (SR 2000/210), and includes any applicable exemption granted in respect thereof.

"TGH" has the meaning given to that term in the Introduction.

"Unconditional Date" means the date by which the Offer is to become unconditional as specified in accordance with rule 25(2) of the Takeovers Code, as this date may be varied in accordance with the Takeovers Code.

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

(a) headings are to be ignored in construing this agreement;

- (b) references to a party or a person includes any form of entity and their respective successors;
- (c) "written" and "in writing" include any means of reproducing words, figures or symbols in a tangible and visible form;
- (d) references to money are to New Zealand dollars;
- (e) a right or power may be exercised from time to time and at any time;
- (f) the singular includes the plural and vice versa;
- (g) any word or expression cognate with a definition in this agreement has a meaning corresponding or construed to the definition;
- (h) a reference to a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether before or after the date of this agreement);
- (i) reference to any document includes reference to that document (and, where applicable, any of its provisions) as amended, novated, supplemented, or replaced from time to time;
- (j) reference to a section, clause, schedule or a party is a reference to that section, clause, schedule or party in this agreement; and
- (k) the schedule and the attachment to the schedule form part of this agreement.

2. TAKEOVER OFFER

2.1 **Offer:** The Offeror agrees that it will, and the Parent agrees that it will procure that the Offeror will, subject to clause 2.2:

- (a) send the Takeover Notice to TGH in compliance with rule 41 of the Takeovers Code within one Business Day after the date of this agreement; and
- (b) make the Offer in accordance with rules 43 and 43B of the Takeovers Code.

2.2 **Conditions:** Each of the Offeror's obligations under clauses 2.1(a) and 2.1(b) are subject to the conditions (which the Offeror may waive in its sole discretion) that:

- (a) none of the circumstances set out in paragraph 6.2 of the Offer Terms has occurred or failed to occur (interpreted as if (A) rule 25(1A) to the Takeovers Code was applicable, and (B) the references to Notice Date in paragraphs 6.2(d) and 6.2(e) of the Offer Terms were references to the date of this agreement), as the case may require, in the period commencing on the date of this agreement and ending on:
 - (i) in the case of the Takeover Notice, the date that the Takeover Notice is sent under clause 2.1(a); and
 - (ii) in the case of the Offer, the date that the Offer is made under clause 2.1(b);

- (b) the Offeror being satisfied, acting reasonably, that no person will exercise any right or refuse to give any required waiver or consent under any provision of any agreement or other arrangement to which any member of the Group is a party, or by or to which any member of the Group or any of its assets may be bound or be subject, as a consequence of TGH or any of its subsidiaries becoming a subsidiary of the Offeror, which results, or could result, to an extent which in the Offeror's reasonable opinion is materially adverse in the context of the Group taken as a whole, in:
 - (i) any moneys borrowed by any member of the Group becoming repayable or being capable of being declared repayable immediately or earlier than the repayment date stated in such agreement or other arrangement; or
 - (ii) any property leased or licensed by any member of the Group, or any agreement to lease or license, being terminated or modified or any action being taken or arising thereunder (including any rental increase); or
 - (iii) any agreement or arrangement for the supply by any member of the Group to a customer being terminated or modified or any action being taken or arising thereunder; or
 - (iv) any agreement or arrangement for the supply to any member of the Group by a supplier being terminated or modified or any action being taken or arising thereunder; and
- (c) the class notice provided by TGH to the Offeror in accordance with rule 42A of the Takeovers Code confirms that the only Equity Securities that TGH has on issue are:
 - (i) 355,906,183 ordinary shares; and
 - (ii) not more than 1,000,000 Performance Rights, and that such Performance Rights are those issued under its equity settled share based incentive plan for senior managers and eligible employees established on 20 April 2016 and as described in note 6.4 of the TGH Annual Report for the 12 month period ended 30 April 2017.

2.3 Offer Terms:

- (a) The Offeror agrees that the Offer will be made, and the Parent agrees to procure that the Offer will be made, at a price of not less than \$1.23 per Share (as may be adjusted in accordance with the Offer Terms) and on the Offer Terms, except as otherwise agreed in writing by the Offeror and the Shareholder (each acting reasonably) before the date on which the Offer is made (and each reference to Offer Terms in this agreement shall be a reference to such terms as amended).
- (b) The Offeror is entitled to:
 - (i) complete any missing information in the Offer Terms (including inserting all necessary dates consistent with the description of those dates in the Offer Terms);
 - (ii) include all information required by Schedule 1 to the Takeovers Code;

- (iii) make such changes to the Offer Terms as are required by the Takeovers Panel or permitted by rule 44 of the Takeovers Code or any exemption; and
- (iv) otherwise vary the Offer in accordance with the Takeovers Code,

provided that, in respect of sub-clauses (iii) and (iv), such variation is not materially prejudicial to the Shareholder and in the case of any variation under rule 44(1)(b)(ii) of the Takeovers Code, such variation is approved in writing by the Shareholder (acting reasonably).

- (c) Nothing in this agreement affects the rights of the Offeror to waive or invoke any condition or other right included in the Offer Terms in accordance with the Takeovers Code.

2.4 Overseas Investment Office condition

- (a) The Offeror will, and the Parent will procure that the Offeror will, within two Business Days of the date of this agreement, file an application for consent ("**OIO Application**") under the OI Act and OI Regulations in relation to the Offer.
- (b) The Offeror must use, and the Parent must procure that the Offeror uses, all reasonable endeavours to promptly satisfy, or procure the satisfaction of, the OIO Condition, including by:
 - (i) promptly providing to the Overseas Investment Office ("**OIO**") all other notices, information and documents reasonably requested by the OIO for the purposes of fulfilling the OIO Condition;
 - (ii) diligently progressing its OIO Application (including, to the extent within its control, by responding to the OIO in a fulsome and timely manner and where applicable in compliance with the prescribed timeframes, in respect of all its questions and other correspondences);
 - (iii) not resiling from or changing, with a consequence that might be adverse to its prospects of satisfying the OIO Condition, any of the assurances or other commitments provided by the Offeror to the OIO in or in connection with the OIO Application (other than where necessary to ensure that the OIO Application is accurate and not misleading and complies with all applicable laws);
 - (iv) other than on termination of this agreement, not withdrawing or varying (with a consequence that might be adverse to its prospects of satisfying the OIO Condition, except any variation necessary to ensure that the OIO Application is accurate and not misleading and complies with all applicable laws and responding to questions and other correspondences in respect of the OIO Application), or procuring such withdrawal or variation of, any application made in connection with satisfying the OIO Condition;
 - (v) (notwithstanding the above) not withdrawing or varying the proposed benefits set out in the OIO Application (with a consequence that might be adverse to the Offeror's prospects of satisfying the OIO Condition) except

where such withdrawal or variation is due to an event or circumstance outside the power or control of the Offeror and its associates;

- (vi) not withholding its approval to the terms or conditions of any consent proposed by the OIO to be granted under the OI Act and the OI Regulations if the terms and conditions sought to be imposed by the OIO: (i) are of a kind commonly imposed in respect of such consents, or (ii) are terms and conditions proposed by the Offeror in the OIO Application, or (iii) are otherwise reasonable; and
 - (vii) providing to the Shareholder copies of all material correspondence with the OIO (provided that the Offeror can redact any portion of such information reasonably considered by it to be commercially sensitive) and consulting with the Shareholder on the response to any such correspondence.
- (c) The Shareholder will provide all information and assistance reasonably required by the Offeror to satisfy, or procure the satisfaction of, the OIO Condition.

3. ACCEPTANCE OF OFFER AND OTHER OBLIGATIONS OF SHAREHOLDER

3.1 **Acceptance of Offer by Shareholder:** Subject to the Offer being made by the Offeror in accordance with this agreement, the Shareholder irrevocably agrees to accept the Offer in respect of all the Shares by no later than the date which is three Business Days after the date of despatch of the Offer, as notified by the Offeror under rule 45 of the Takeovers Code or, if later, then on the Business Day on which the Offer is received by the Shareholder, by duly signing the relevant acceptance form accompanying the Offer document and returning that acceptance form in accordance with the terms of the Offer.

3.2 **Dealings with Shares by Shareholder:** The Shareholder agrees that, unless this agreement is terminated in accordance with its terms, it will not dispose of or deal in any way with (including granting an option over or interest in or encumbering) any of the Shares, except to accept the Offer.

4. COMPLIANCE WITH THE TAKEOVERS CODE

4.1 **Holding and controlling of voting rights:** Nothing in this agreement will confer on the Offeror the ability, or right, to hold or control (as defined in the Takeovers Code) the voting rights (as defined in the Takeovers Code) attaching to the Shares, and the Offeror will not become the holder or controller of such voting rights except on transfer of the Shares under the Offer. The Shareholder may exercise or control the exercise of all voting rights attached to its Shares in whatever manner that it sees fit until the Shares are transferred under the Offer.

5. WARRANTIES

5.1 **Shareholder representations and warranties:** The Shareholder represents and warrants to the Offeror that from the date of this agreement until the Shares are transferred to the Offeror under the Offer:

- (a) the Shareholder is the legal and beneficial owner of the Shares and the Shares are fully paid and no money is owing to TGH in respect of them;
- (b) it has the power to deal in the Shares and has the necessary capacity and authority to accept the Offer in respect of the Shares; and
- (c) on completion of the purchase of the Shares in accordance with the Offer Terms including payment of the purchase price for the Shares, legal and beneficial title to the Shares will pass to the Offeror free of all liens, charges, mortgages, encumbrances and other adverse interests or claims of any nature whatsoever, but together with all rights, benefits and entitlements attaching to the Shares arising on, after, or by reference to, the Notice Date, except in respect of the Permitted Dividend or as otherwise provided for in, or specified by the Offeror in accordance with, the Offer Terms.

5.2 **Power to enter into agreement:** Each party warrants and represents to the other that it has the legal right, authority and full power to enter into this agreement and to perform its obligations under it and has taken all necessary corporate and other action to authorise this agreement's execution, delivery and performance.

5.3 **Binding obligation:** Each party warrants and represents to the other that this agreement constitutes valid and binding obligations enforceable against the party in accordance with its terms.

5.4 **Acknowledgements:** The Offeror and the Parent each acknowledges that:

- (a) it has relied and will rely on its own judgement in entering into this agreement and in making the Offer and that, other than the representations and warranties in clauses 5.1 to 5.3, no representations or warranties, express or implied, oral or written, in respect of the Shares or the Group or any other matter have been made by or on behalf of the Shareholder or any of its agents, officers, contractors, advisers or employees; and
- (b) it has not been induced or influenced in any way by any statement or representation made by or on behalf of the Shareholder or any of its agents, officers, contractors, advisers or employees to enter into this agreement or to make the Offer.

6. TERMINATION

6.1 **Shareholder's right to terminate:** The Shareholder will be entitled to terminate this agreement if the Offeror does not comply with its obligations under clause 2.1 or 2.4(a).

6.2 **Automatic termination:** This agreement will automatically terminate if:

- (a) the Offeror does not make the Offer because a condition in clause 2.2 is not satisfied (and is not waived by the Offeror); or
- (b) the Offeror withdraws the Offer in accordance with the Takeovers Code; or
- (c) one of the conditions applicable to the Offer remains unfulfilled on the Unconditional Date, and the Offer lapses in accordance with rule 25(4) of the Takeovers Code.

6.3 **Exception:** Notwithstanding clause 6.2(c), if the OIO Condition remains unfilled on the Unconditional Date and the Offer lapses in accordance with rule 25(4) of the Takeovers Code and the parties agree, acting reasonably and based on legal advice, that it is reasonably likely that the OIO Condition will be satisfied, then this agreement will not terminate and:

- (a) the Offeror will make a new Offer on the Offer Terms updated to reflect changes in circumstances (the "**New Offer**") including by (i) changing the Offer price to the Final Price, (ii) removing paragraphs 8.7 and 8.8 of the Offer Terms; and (iii) making consequential amendments;
- (b) a Takeover Notice will be sent by the Offeror to TGH in compliance with rule 41 of the Takeovers Code within 10 Business Days of the Unconditional Date which includes the terms of the New Offer (the date such notice is sent to TGH being the "**New Notice Date**"); and
- (c) the offer period of the New Offer will be the shortest period permitted by rule 24 of the Takeovers Code and the New Offer shall provide that such offer period will not be extended by the Offeror (even if such extension would otherwise be in accordance with the Takeovers Code).

The terms of this agreement (other than this clause 6.3) shall, with the necessary modifications, apply to the New Offer.

6.4 **Consequences of termination:** On termination of this agreement for any reason:

- (a) the termination will be without prejudice to either party's rights and remedies in respect of any breach of this agreement by the other party, where the breach occurred before the termination of this agreement; and
- (b) the provisions of clauses 6.4, 7, 8 and 9, together with those other provisions of this agreement which are incidental to, and required in order to give effect to those clauses, will remain in full force and effect.

7. CONFIDENTIALITY

7.1 Each party (the "**Receiving Party**") will maintain as confidential and will not, at any time, directly or indirectly, disclose or permit to be disclosed to any person, use for itself, or use to the detriment of the other parties (each a "**Disclosing Party**") any Confidential Information except:

- (a) as required by law or by the listing rules of any relevant stock exchange;
- (b) as is already or becomes public knowledge, otherwise than as a result of a breach by the Receiving Party or its Representatives of any provision of this agreement;
- (c) as authorised in writing by the Disclosing Party;
- (d) to the extent reasonably required to give effect to this agreement; or
- (e) on a "need to know" basis to its officers, employees and/or professional advisers, or in the case of the Shareholder, its investment committee, its investment managers or advisers and their respective employees (its "**Representatives**") provided that the

Receiving Party will procure that any such person who receives the Confidential Information complies with the terms of this clause 7.1.

8. NOTICES

8.1 **Notice:** Every notice or other communication ("**Notice**") for the purposes of this agreement shall:

- (a) be in writing; and
- (b) be delivered in accordance with clause 8.2.

8.2 **Method of service:** A Notice may be given by:

- (a) delivery to the physical address of the relevant party; or
- (b) posting it by pre-paid post to the postal address of the relevant party; or
- (c) sending it by email to the email address of the relevant party, so long as clause 8.4 is complied with.

8.3 **Time of receipt:** A Notice given in the manner:

- (a) specified in clause 8.2(a) is deemed received at the time of delivery;
- (b) specified in clause 8.2(b) is deemed received three Business Days after (but exclusive of) the date of posting;
- (c) specified in clause 8.2(c) is deemed (subject to clause 8.4) received:
 - (i) if sent between the hours of 9am and 5pm (local time) on a local working day, at the time of transmission; or
 - (ii) if subclause (i) does not apply, at 9am (local time) on the local working day most immediately after the time of sending.

For this purpose "local time" is the time in the place of receipt of the Notice, and a "local working day" is a normal working day in that place.

8.4 **Email notice:** A Notice given by email is not deemed received unless (if receipt is disputed) the party giving Notice produces a printed copy of the email which evidences that the email was sent to the email address of the party given Notice.

8.5 **Addresses:** For the purposes of this clause, the address details of each party are:

- (a) the details set out below; or
- (b) such other details as any party may notify to the other by Notice given in accordance with this clause.

The Offeror and the Parent:

Physical and postal address: 19th Floor Inoza Tower, 40th Street Bonifacio Global City, Taguig, Metro Manila, Phillipines 1630
 Email address: dcc@bountyfresh.com.ph
 Attention: Debbie Chung

with a copy to:

Physical address: Russell McVeagh, Vero Centre, 48 Shortland Street, Auckland
 Postal address: PO Box 8, Auckland 1140
 Email address: joe.windmeyer@russellmcveagh.com
 Attention: Joe Windmeyer

The Shareholder:

Physical and postal address: 8 Temasek Boulevard, #28-03 Suntec Tower Three, Singapore, 038988
 Email address: tptay@affinityequity.com
 Attention: TAY, Tong Poh

with a copy to:

Physical and postal address: 8 Temasek Boulevard, #28-03 Suntec Tower Three, Singapore, 038988
 Email address: Aarongoh@affinityequity.com
 Attention: GOH, Aaron

and a copy to:

Physical address: MinterEllisonRuddWatts, Level 20, 88 Shortland Street, Auckland
 Postal address: PO Box 3798, Auckland 1140
 Email address: mark.stuart@minterellison.co.nz
 Attention: STUART, Mark

9. GENERAL

- 9.1 **Compliance with law:** Nothing in this agreement shall require any party to do any act or thing in contravention of the Takeovers Code, the Financial Markets Conduct Act 2013 or the Companies Act 1993.
- 9.2 **Amendments:** No amendment to this agreement will be effective unless it is in writing and signed by the parties.
- 9.3 **Further assurances:** The parties shall promptly do everything reasonably required to give effect to this agreement according to its spirit and intent. Each party shall bear its own costs (and those of its related companies) incurred in connection with this agreement and the transaction contemplated by it.
- 9.4 **Counterparts:** This agreement may be signed in two or more counterparts (including facsimile or PDF copies), all of which when taken together shall constitute one and the same instrument and a binding and enforceable agreement between the parties.

- 9.5 **Severability:** A term (or part thereof) of this agreement that is illegal or unenforceable may be severed from this agreement and the remaining terms (or part thereof) of this agreement continue in force.
- 9.6 **Governing law:** This agreement is governed by New Zealand law. The parties submit to the non-exclusive jurisdiction of the Courts of New Zealand.
- 9.7 **Time of the essence:** Any time, date or period in this agreement may be extended by agreement between the parties but, as regards any time, date or period, fixed or extended, time shall be of the essence.
- 9.8 **Entire agreement:** This agreement and the Offer Terms constitute the entire agreement and understanding between the parties relating to the subject matter of this agreement and supersede all previous agreements and understandings between the parties relating thereto.
- 9.9 **No agency:** Nothing contained in this agreement is deemed to constitute any of the parties the agent or legal representative of any other party except as otherwise expressly provided in this agreement. No party has authority to assume any right, obligation or liability on behalf of the other party.
- 9.10 **Waiver:** A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise by a party of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.

SIGNATURES

CLARIS INVESTMENTS PTE. LTD by:



Signature of director

Tay Tong Poh

Name of director



Signature of director

ROBIN ONG

Name of director

**BOUNTY HOLDINGS NEW ZEALAND
LIMITED** by:

Signature of director

Name of director

BOUNTY FRESH FOOD, INC. by:

Signature of authorised signatory

Name of authorised signatory

SIGNATURES

CLARIS INVESTMENTS PTE. LTD by:


Signature of director

Name of director

Signature of director

Name of director

**BOUNTY HOLDINGS NEW ZEALAND
LIMITED by:**




Signature of director

Kenneth Cheng

Name of director

BOUNTY FRESH FOOD, INC. by:



Signature of authorised signatory

Tennyson Chen

Name of authorised signatory