

## INVESTOR AGREEMENT

DATE UPDATED: NOVEMBER 2021

### WARNING STATEMENT ABOUT CROWDFUNDING:

Equity crowdfunding is risky.

Issuers using this facility include new or rapidly growing ventures. Investment in these types of businesses is very speculative and carries high risks.

You may lose your entire investment, and must be in a position to bear this risk without undue hardship.

New Zealand law normally requires people who offer financial products to give information to investors before they invest. This requires those offering financial products to have disclosed information that is important for investors to make an informed decision.

The usual rules do not apply to offers by issuers using this facility. As a result, you may not be given all the information usually required. You will also have fewer other legal protections for this investment.

Ask questions, read all information given carefully, and seek independent financial advice before committing yourself.

### WARNING STATEMENT FOR WHOLESALE INVESTORS INCLUDING THOSE INVESTING NZD750,000 OR MORE:

New Zealand law normally requires people who offer financial products to give information to investors before they invest. This requires those offering financial products to have disclosed information that is important for investors to make an informed decision.

The usual rules do not apply to wholesale offers because there is an exclusion for offers made to wholesale investors (within the meaning of that term in the Financial Markets Conduct Act 2013), including where the amount invested upfront by the investor (plus any other investments the investor has already made in the financial products) is \$750,000 or more.

Please ensure you have read and understood the Wholesale Investor warning statement provided by the Issuer in the Investment Memorandum.

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## 1. DEFINITIONS

"**Act**" means the Financial Market Conduct Act 2013 and the Financial Market Conduct Regulations 2014.

"**Agreement**" means this agreement that is entered into between the Investor and PledgeMe and which governs your use of the Services.

"**Associated Person**" has the meaning given to that expression in section 12 of the Act.

"**Campaign**" means an equity crowdfunding project whereby an Issuer offers Shares in itself for purchase by investors via the Website.

"**Disclosure Statement**" means this disclosure statement provided by PledgeMe to Retail Investors and Wholesale Investors.

"**Intellectual Property**" means copyright, patents, designs, trademarks, trade names, goodwill rights, trade secrets, confidential information and any other intellectual proprietary right or form of intellectual property.

"**Investor**" or "**you**" means a Retail Investor or a Wholesale Investor as applicable.

"**Issuer**" means a New Zealand company which has entered into an Issuer Agreement and is approved by us to use the Services to create a Campaign.

"**Issuer Agreement**" means the agreement entered into between an Issuer and PledgeMe before the Issuer can use the Services, set out at the Website.

"**Retail Investor**" means a person or entity that:

- (a) is not a Wholesale Investor;
- (b) has entered into this Agreement with PledgeMe; and
- (c) is approved by us to use the Services to acquire Shares through Campaigns.

"**Retail Investor Campaign**" means a Campaign whereby Shares in the Issuer are offered to Retail Investors.

"**Services**" has the meaning contained in paragraph 2.

"**Shares**" means the shares issued, sold or traded on our Website with the rights attached to them as specified on the relevant Campaign page.

"**Target**" means the total minimum amount to be raised by an Issuer for an individual Campaign, which must be pledged within a maximum specified time period as disclosed on the relevant Issuer's Campaign page on our Website (subject to extensions of time which may be granted at PledgeMe's discretion upon request by an Issuer).

"**We**" or "**Us**" or "**PledgeMe**" means PledgeMe Limited.

"**Website**" means the PledgeMe website: [www.pledgeme.co.nz](http://www.pledgeme.co.nz).

**"Wholesale Investor"** means a person or entity that:

- (a) is a "wholesale investor" as defined in clause 3 of schedule 1 of the Act;
- (b) has entered into this Agreement with PledgeMe; and
- (c) is approved by us to use the Services to acquire Shares through Campaigns.

**"Wholesale Investor Campaign"** means a Campaign whereby Shares in the Issuer are offered to, and can only be purchased by, Wholesale Investors.

## **2. OUR SERVICES**

2.1 PledgeMe is a licensed intermediary that provides equity crowdfunding services to approved Issuers and Investors. Issuers can promote their Campaigns through PledgeMe to obtain funding from Investors in return for Shares in the Issuer upon reaching their funding Target (Services).

The Services may include:

- (a) the issue, sale and purchase of Shares in New Zealand companies;
- (b) trading of Shares on our secondary share market ( if any); and
- (c) where requested by an Issuer, the provision of a communication portal on the Website to facilitate communication and decision making between the Issuer and its shareholders.

2.2 All of PledgeMe's Services can be found and accessed on our Website.

2.3 We do not guarantee that provision of the Services will be continuous or fault free.

## **3. HOW TO BECOME AN INVESTOR**

3.1 To become an Investor and use the Services an applicant must:

- (a) create a PledgeMe account by clicking "Sign Up", or, if the applicant already has an account, log-in to their PledgeMe account;
- (b) submit an Investor application request on the Website either as an individual or on behalf of a company by:
  - (i) clicking on the "Register for Investment" button on their PledgeMe account page;
  - (ii) submitting personal or company details (this information will be verified if the Investor pledges on a successful Campaign);
  - (iii) if the application is for the purposes of becoming a Wholesale Investor, submitting a completed certificate confirming the applicant's status as a "wholesale investor" as defined in clause 3 of schedule 1 of the Act;

- (iv) confirming that the applicant has read and understood the following warning statement about crowdfunding:

*"I have seen the warning statement about crowd funding and —*

- (a) I understand that equity crowdfunding is risky and I may lose my entire investment; and
- (b) I confirm that I could bear that loss without suffering undue hardship; and
- (c) I understand that the usual legal protections do not apply to this investment; and
- (d) I understand that I may not be given the same information as is usually required by New Zealand law for investments."

(which also appears on the Website, at the beginning of this Agreement and at the beginning of the Disclosure Statement) by clicking the 'I understand' button;

- (v) acknowledging that the applicant has received the Disclosure Statement, read and understood its contents by clicking the 'I have received, read and understood' button;

(c) read and accept this Agreement by clicking the 'I accept' button; and

(d) receive from us an email acknowledging completion of the application process and acceptance of the applicant to be an Investor with a copy of the Disclosure Statement and this Agreement attached to the email address supplied by the applicant (together, the "Investor Registration Process").

3.2 An individual may only make an Investor application in their own name or on behalf of a company for which they have authority to act. By completing the Investor Registration Process, the applicant warrants to PledgeMe that all information given by the Investor is true and accurate and, if the Investor is a company, that the person completing the application has the authority to act on behalf of the company and can bind the company.

3.3 We reserve the right to refuse any Investor from using our Services. This right is described in more detail later in this Agreement.

3.4 The Investor Registration Process must be completed before we can authorise you to use the Services.

#### **4. ELIGIBILITY CRITERIA FOR INVESTORS**

4.1 To qualify as an Investor an applicant must:

- (a) if an individual, be over the age of 18 years; and
- (b) not be bankrupt or insolvent.

4.2 As part of the Investor Registration Process, applicants are required to provide their:

- (a) full legal name;
- (b) email address;
- (c) residential address;
- (d) date of birth;
- (e) if the applicant is a New Zealand citizen, details of their passport or driver's licence, or otherwise, a copy of the applicant's passport or driver's licence;
- (f) proof of address if the applicant is not ordinarily resident in New Zealand; and
- (g) any other information requested by us.

You will be required to satisfy our identity checks which will take place at the completion of a successful Campaign or at any other time.

Non-individual applicants will be required to provide other or additional evidence of their identity as part of the Investor Registration Process.

4.3 Some Campaigns may have additional eligibility criteria for Investors and these will be published on the relevant Campaign page on the Website.

4.4 All Campaigns are only intended to be capable of investment by persons in New Zealand or by any other person to whom such an offer is permitted without restriction in their relevant jurisdiction. Any Investor who is not a New Zealand resident or who is not present in New Zealand must ensure, and should consult a professional adviser to ensure, that they comply with all laws of the relevant jurisdiction when reviewing a Campaign and subscribing for any Shares pursuant to that Campaign. There may be laws within that jurisdiction that restrict or make unlawful the offering of Shares and/or the subscription for Shares through a Campaign. To the extent permitted by law, PledgeMe will not be liable for any loss that arises as a result of overseas Investors using the Services or investing in Campaigns where such loss is caused by the investment being made in breach of laws outside of New Zealand.

## **5. HOW TO BECOME AN ISSUER**

An applicant must create a PledgeMe account and complete the Issuer Registration Process as set out in the Disclosure Statement and the Issuer Agreement.

## **6. THE INVESTMENT PROCESS**

- 6.1 Subject to clause 6.2 below, you can purchase Shares in an Issuer through any Campaign on our Website provided that you comply with this Agreement and any other of PledgeMe's terms and policies.
- 6.2 Retail Investors can only purchase Shares through a Retail Investor Campaign.
- 6.3 At the outset of the Campaign, the Issuer will set a timeframe within which the Target must be met (which will be specified on the Campaign page). If the Target has not been met within the timeframe then the pledges will not be processed. If the Target is met before the end of the set timeframe, then the Issuer may choose to close its Campaign early, in which case Investors will not be able to make any additional pledges. An Issuer may expand the Campaign's timeframe with our prior written consent.
- 6.4 An Issuer may run a Retail Investor Campaign and a Wholesale Investor Campaign concurrently. Any Wholesale Investor Campaign will be separate to the Retail Investor Campaign meaning it will operate on a separate page and a separate Target will apply. In this instance, if only one Campaign is (or is deemed to) have met its Target within the relevant timeframe, all pledges for that Campaign will be processed by PledgeMe even though the other Campaign has not met its Target or is unsuccessful for any other reason.
- 6.5 Each Campaign page sets out how Shares can be purchased. You can enter the amount of money you would like to invest in the Issuer in the relevant place on the Campaign page, which calculates the number of Shares equivalent to that amount based on the quoted Share price (the Share price and any limitation on numbers or other conditions will be clearly published on the relevant Campaign page). You can then irrevocably agree to purchase the Shares by clicking the "Pledge" button.
- 6.6 Shares offered through a Campaign may have different rights attached to them.
- 6.7 Once a Campaign Target has been reached, we will let you know that you are required to pay for the Shares you have agreed to purchase either:
- (a) by completing an electronic bank deposit (we will supply you with the bank account details of our Trust account on the completion of the Campaign); or
  - (b) by credit card by using our secure transaction provider Flo2Cash.
- 6.8 We will then complete identity checks on all Investors who have purchased the Shares. We will advise you (and other Investors on a case by case basis) if any issues arise in the course of undertaking these checks. We may seek further information from any Investor. If we are unable to establish an Investor's identity to our satisfaction we may refuse to complete the Share purchase transaction in respect of that Investor and their

pledge will be refunded to them. Once that review is complete, we will process all verified Campaign pledge monies into our Trust account.

6.9 If an Issuer reaches its Campaign Target but this amount is ultimately unable to be met (for example if an Investor's identity cannot be verified or an Investor fails to meet their pledge), then:

- (a) if the amount of valid pledges is at least 90% of the Campaign Target, the Campaign will be deemed to be successful and all pledges will be processed by PledgeMe, without PledgeMe or the Issuer being required to notify Investors; or
- (b) if the number of valid pledges amounts to less than 90% of the Campaign Target, the Campaign will be deemed to be unsuccessful and all pledges will be refunded to Investors by PledgeMe.

6.10 If the Target has not been met then the monies held by us in our Trust account will be repaid to Investors, and the credit card pledge payments will not be processed.

6.11 Upon payment of the Campaign monies to the Issuer the Issuer shall, in accordance with the Issuer Agreement, immediately:

- (a) record the transfer of Shares to you (and the other Investors) in the Issuer's share register; and
- (b) file a return to the Companies Office recording such transfers.

## **7. HOW WE DEAL WITH INVESTOR MONEY**

7.1 All monies received by us for the purchase of Shares as part of a Campaign will be received and held in our interest bearing trust account at Bank of New Zealand (in accordance with the obligations of a broker under the Financial Advisers Act 2008).

7.2 Any interest earned on Investor funds held in PledgeMe's trust account will be retained by PledgeMe as an administration charge.

## **8. CHARGES FOR INVESTORS**

8.1 At this stage, there are no charges payable by Investors who opt to pay by bank transfer.

8.2 We may require interest to be paid on any amount owed by you to us that is overdue by more than 7 days. Interest will be calculated at the rate of 18% per annum until payment is made. We reserve the right to recover from you the full costs incurred by us (including solicitor/client costs) in recovery of any money owed by you to us.

## **9. RIGHTS OF PLEDGEME TO ALTER ANY CHARGES**

9.1 PledgeMe shall only alter its charges to you if:

- (a) agreed in writing with you;
- (b) where administration charges are altered in relation to our trust account by giving one month's prior written notice to you; or
- (c) changes are posted on the Website, provided that those changes will only affect Campaigns that commence after such notification is given.

## **10. MONITORING OF ISSUER COMPLIANCE**

- 10.1 Our Anti-Fraud Policy as published on the Website from time to time outlines how we will complete background checks on Issuers and Investors, and how we maintain records and oversee funds pledged on our platform to prevent or detect fraud at an early stage.
- 10.2 Our methodology is to:
- (a) verify Issuer identity information;
  - (b) verify Investor identity information;
  - (c) check Issuer credit rating;
  - (d) check Issuer insolvency status;
  - (e) check Issuer activity and background; and
  - (f) checks in compliance with the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.
- 10.3 With the exception of the following policies:
- (a) anti-fraud policy;
  - (b) fair dealing policy;
  - (c) conflicts of interest policy;

as published on the Website from time to time, we do not undertake monitoring of the Issuer, the performance of its business, the Shares or the use of the shareholder communication portal on our Website by the Issuer and/or you and other shareholders.

## **11. ISSUER CHECKS AND DISCLOSURES**

- 11.1 PledgeMe will disclose the following information on each Issuer's Campaign page:

- (a) that we have completed Veda credit checks on each of the Issuer's directors and, if applicable, its senior managers;
  - (b) a copy of the Issuer Agreement;
  - (c) any limits and conditions on the Services affecting the Issuer or its Shares; and
  - (d) conflicts of Interest of PledgeMe or its Associated Persons pursuant to PledgeMe's conflict of interest policy (if any).
- 11.2 Issuer will be required, as a minimum, to publish the following documents on its Campaign page:
- (a) certificate of Incorporation and Companies Office extract;
  - (b) constitution of the company;
  - (c) a minimum of one image from the business (to be used in the browse box);
  - (d) basic information around the Issuer's business idea and relevant market;
  - (e) financial accounts created by an accountant or pulled from accounting software (up to past three years, depending on how long the company has been trading);
  - (f) financial forecast with reference to underlying assumptions based on reasonable grounds for the next three years;
  - (g) business plan;
  - (h) valuation of the Issuer (including any assumptions made);
  - (i) shares on offer (minimum Target and maximum oversubscription amounts), the rights attaching to Shares and details of any other financial products of the Issuer;
  - (j) explanation of the key risks faced by the Issuer; and
  - (k) rewards and a pitch video will be optional, but recommended.
- 11.3 Issuers must provide assumptions based on reasonable grounds supporting the Issuer's financial information, including its valuations and forecasts, to ensure there is no breach of the fair dealing obligations under Part 2 of the Act.
- 11.4 PledgeMe's checks and assessments of Issuers do not include checks and assessments of the risks involved in relation to each Campaign, being the business of the Issuer or the Shares on offer. PledgeMe will review the disclosure information set out in paragraph 11.2 prior to publication to ensure that it is timely and understandable. We do not verify any of this information, and make no representation in relation to the completeness or accuracy of any information contained in the Campaign materials.

11.5 Issuers will need to satisfy the PledgeMe minimum standards in accordance with its Anti Fraud Policy (published on the Website).

## 12. YOUR WARRANTIES

12.1 You warrant and confirm that:

- (a) you have seen the warning statement about crowdfunding on the Website and at the beginning of this Agreement and that you:
  - (i) understand that equity crowdfunding is risky and that you may lose your entire investment; and
  - (ii) confirm that you could afford that loss without undue hardship; and
  - (iii) understand that the usual legal protections do not apply to this investment; and
  - (iv) understand that you may not be given the same information as is usually required by New Zealand law for investments;
- (b) if you are a "wholesale investor" as defined in clause 3(3)(b)(i) and (ii) of schedule 1 of the Act, you have seen the warning statement about wholesale investors (including in relation to wholesale investors investing NZD750,000 or more) on the Website and at the beginning of this Agreement and that you understand that the usual legal rules that require information to be given to investors for offers of financial products do not apply, including if the amount invested upfront by you (plus any other investments you may have already made in those financial products) is NZD750,000 or more;
- (c) if you are applying to become a Wholesale Investor, that you:
  - (i) are a "wholesale investor" as defined in clause 3 of schedule 1 of the Act; and
  - (ii) will provide a completed certificate confirming your status as a "wholesale investor" as defined in clause 3 of schedule 1 of the Act;
- (d) you will comply with all New Zealand laws in connection with the use of our Services;
- (e) that you will comply with, agree to and be bound by:
  - (i) this Agreement; and
  - (ii) the fair dealing obligations in Part 2 of the Act.

### **13. WHOLESALE INVESTOR UNDERTAKINGS**

- 13.1 If you are applying to become a Wholesale Investor, you undertake to provide written notice to us of any change in your Wholesale Investor status that occurs prior to the processing of your pledges, as soon as possible.

### **14. PLEDGEME'S OBLIGATIONS**

- 14.1 PledgeMe must, in exercising any powers or performing any duties in relation to the Services provided under its crowdfunding licence, exercise the care, diligence, and skill that a prudent licensee for that service would exercise in the same circumstances.
- 14.2 If PledgeMe contracts out any of its functions in providing the Services, it must take all reasonable steps to:
- (a) ensure that those functions are performed in the same manner, and are subject to the same duties and restrictions, as if PledgeMe was performing them directly; and
  - (b) monitor the performance of those functions.

### **15. INSPECTION AND PRIVACY ACT**

- 15.1 In order to assist us to determine whether you are complying or have complied with this Agreement and New Zealand law, we may from time to time require you or any of your directors, officers, employees, contractors or any Associated Person of you or the before mentioned persons or entities to produce any documents (including electronic documents) for inspection or provide any information held by the person concerned.
- 15.2 You consent to us providing to the Financial Markets Authority and/or the Issuer any and all documents or records we have in respect of you that the Financial Markets Authority may from time to time request.
- 15.3 You understand and agree that from time to time PledgeMe will ask you for personal information about you so as to use Veda's credit reporting service and/or Cloudcheck to credit check you or to confirm your identity. You further understand and agree that:
- (a) Veda and/or Cloudcheck will give PledgeMe information about you for that purpose;
  - (b) PledgeMe will give your personal information to Veda and/or Cloudcheck and that Veda and/or Cloudcheck will hold that information on their systems and use it to provide their reporting service;
  - (c) when other Veda and/or Cloudcheck customers use the Veda credit reporting or Cloudcheck service, Veda and/or Cloudcheck may give the information to those customers;
  - (d) PledgeMe may use Veda credit reporting and/or Cloudcheck services in the future for purposes related to the provision of crowdfunding services. This may include

using Veda and/or Cloudcheck's monitoring services to receive updates if any of the information held about you changes; and

- (e) if you default on your payment obligations to PledgeMe, information about the default may be given to Veda and/or Cloudcheck and Veda and/or Cloudcheck may give information about the default to other Veda and/or Cloudcheck customers.

## **16. CONDITIONS**

We may by written notice to you, in our absolute discretion, impose additional conditions at any time that must be fulfilled by you to maintain the use of our Services.

## **17. SUSPENSION OR CANCELLATION**

We may at any time, and in our absolute discretion, do any one or more of the following, without giving any reasons or prior notice to you:

- (a) suspend all or any of our Services;
- (b) refuse to accept you (or any other person) as an Investor;
- (c) remove you (or any other person) as an Investor;
- (d) remove content from the Website;
- (e) refuse to publish content on the Website;
- (f) disclose any information on the Website or otherwise necessary to comply with this Agreement, the Disclosure Statement and New Zealand law; and
- (g) publish a censure of, or statement relating to your conduct, or the conduct of any of your Associated Persons if we consider such conduct warrants such a censure. Except where we have acted in bad faith, you waive all claims you may have in respect of such censure or statement and shall indemnify us against any such claims by you or by the persons referred to in the previous sentence.

## **18. INTELLECTUAL PROPERTY**

You acknowledge that we own all of the Intellectual Property rights in respect of PledgeMe, the Services and the Website. You agree not to challenge or do anything inconsistent with such ownership.

## **19. LIABILITY AND INDEMNITY**

- 19.1 PledgeMe is not liable in any way for payments processed by Flo2Cash or any similar payments provider and is not responsible in any way for the failure of any Investor payments.

- 19.2 All liability we may have to you, except liability arising under the Consumer Guarantees Act 1993 that cannot be contracted out of, is excluded. We are not liable to you and do not have to pay you for anything else caused by or resulting from any action or inaction by us. This exclusion applies whatsoever you are claiming (including loss of profits, savings, revenue or business) and however liability might arise but for this clause (including for breach of contract or in tort, including negligence).
- 19.3 If we are ever liable to you and, for any reason whatsoever, the maximum combined amount we will have to pay you and anyone else who uses our Services (together) is a total of NZD10,000.
- 19.4 You indemnify PledgeMe against all forms of liability, actions, proceedings, demands, costs, charges and expenses which PledgeMe may incur or suffer as a result of any action or inaction we take in relation to you or as a result of your failure to comply with this Agreement or (if applicable) your failure to meet the criteria to qualify as a Wholesale Investor.
- 19.5 You hereby indemnify us against any liability we incur to any third party arising out of or in connection with your performance or breach of this Investor Agreement and/or your use of our Services.
- 19.6 Each clause in this Agreement operates separately. If any court or competent authority decides that any of them are unlawful or unenforceable, the remaining conditions will remain in full force and effect.
- 19.7 In this clause "we" and "us" includes our subsidiaries and Associated Persons, and the directors, officers, employees and contractors of each of us.

## **20. TERMINATION**

- 20.1 We may immediately suspend or remove your access to our Services and/or terminate this Agreement if you breach any of the warranties set out in clause 12 or any other material terms of this Agreement.
- 20.2 Without prejudice to our rights of immediate termination either party may end this Agreement by giving 20 days written notice.
- 20.3 Termination will not affect any rights and obligations already accrued.

## **21. INVESTOR COMPLAINTS PROCESS**

- 21.1 If you have any complaints or comments in connection with our Services, you should contact PledgeMe at [contact@pledgeme.co.nz](mailto:contact@pledgeme.co.nz) or in writing to PledgeMe C/- BDO Wellington, Level 1, 50 Customhouse Quay, Te Aro, Wellington 6011.
- 21.2 If a dispute arises following such a complaint which the parties are unable to resolve by negotiation then the dispute shall be referred to Financial Services Complaints Limited (FSCL) and its determination shall be final and binding on the parties.

21.3 FSCL provides an independent and impartial dispute resolution service. PledgeMe is a participant of the scheme. You can contact FSCL by using an online form available at [www.fscl.org.nz](http://www.fscl.org.nz), emailing at [complaints@fscl.org.nz](mailto:complaints@fscl.org.nz), telephoning on 0800 347 257 or writing to FSCL, PO Box 5967, Wellington 6145. More information about FSCL's dispute resolution process is at [www.fscl.org.nz](http://www.fscl.org.nz).

## **22. GENERAL**

In this Agreement, references to legislation or other law or a provision of them includes regulations and other instruments under them, and any consolidation, amendment, re-enactment or replacement.

## **23. ASSIGNMENT**

You shall not assign any of your rights under this Agreement to any third party.

## **24. ENTIRE AGREEMENT**

This Agreement constitutes the complete and exclusive statement of the agreement between the parties, superseding all proposals or prior agreements, oral or written, and all other communications between the parties.

## **25. GOVERNING LAW**

This Agreement, the relationship between the parties and the use of our Services and the Website shall be governed by New Zealand law, and the parties submit to the jurisdiction of New Zealand Courts.