



15 March 2021

Infratil confirms support for acquisition proposal for Tilt from a consortium of Powering Australian Renewables and Mercury NZ

Infratil welcomes the announcement today by Tilt Renewables Limited (**Tilt**) that it has entered into a Scheme Implementation Agreement (**SIA**) with Powering Australian Renewables (**PowAR**) and Mercury NZ Limited (**Mercury**). Under the SIA, it is proposed that PowAR will effectively acquire Tilt's Australian business and Mercury will acquire Tilt's New Zealand business by way of a Scheme of Arrangement (**Scheme**), and Tilt shareholders will receive NZ\$7.80 per share in cash¹ (**Transaction**). Tilt's announcement is attached.

As part of the Transaction, Infratil has entered into a binding Voting Deed with PowAR under which Infratil has committed to vote all the Tilt shares that it controls, representing 65.5% of Tilt shares on issue, in favour of the Scheme.

The Transaction follows Infratil's announcement on 7 December 2020 that it had initiated a strategic review of its shareholding in Tilt. Jason Boyes, incoming Infratil CEO, said "We are very pleased with the outcome of the strategic review, which involved an extensive outreach program to identify potential bidders around the world, followed by a highly competitive auction process run by Tilt. We believe the price offered by PowAR and Mercury represents compelling value for Tilt and Infratil is pleased to support the transaction."

Subject to any pre-completion dividends, Infratil's gross proceeds from the sale of its 65.5% stake in Tilt will be approximately NZ\$1,926.1 million. As at 30 September 2020, Infratil's carrying value of Tilt was NZ\$704.1 million and the sale price represents a ~99% premium to the Tilt share price prior to Infratil's 7 December 2020 announcement.

Infratil's investment in Tilt originated when Tilt was part of Trustpower and Infratil has been a strong supporter of the company's growth since Tilt was demerged from Trustpower in 2016.

The Scheme is currently expected to take approximately 4 months to be implemented. Implementation of the Scheme remains subject to a number of conditions and termination events, which are summarised in Tilt's announcement. The Voting Deed is attached to Infratil's Substantial Product Holder Notice, a copy of which is also attached.

Impact on Estimated FY2021 International Portfolio Annual Incentive Fee

As part of its Investor Day on 16 February 2021, Infratil noted that Tilt would be included in the FY2021 assessment of the International Portfolio Annual Incentive Fee based on an undisturbed valuation. Infratil advises that for these purposes a Tilt share price of NZ\$5.44 per share will be applied, resulting in an increase in the FY2021 International Portfolio Annual Incentive Fee accrual to NZ\$217.0 million (previously NZ\$147.3 million). Infratil notes that the actual International Portfolio Annual Incentive Fee as at 31 March 2021 will be determined based on independent valuations of each of the other relevant investments, together with the Tilt undisturbed valuation. If an International Portfolio Annual Incentive Fee is ultimately determined to be payable at 31 March 2021, the fee will be payable in three equal tranches

¹ Subject to reduction for any permitted dividend paid by Tilt prior to implementation.

over the period to 31 March 2023, with the latter two tranches only being payable if the total valuation of all of the relevant investments as at 31 March 2022 and 31 March 2023 respectively, is no less than the total valuations determined as at 31 March 2021.

International Portfolio Realised Incentive Fee

In addition, Infratil advises that an International Portfolio Realised Incentive Fee assessment will be undertaken upon completion of the sale of Tilt, which will reflect the difference between the 31 March 2021 undisturbed valuation, plus the 12% hurdle through to the completion date, and the actual sale proceeds less associated sales costs. The Realised Incentive Fee payable will in part depend on when completion occurs and final sales costs, however based on the estimated four month timetable to implementation, the fee is estimated as NZ\$107.1 million and would be payable in April 2022.

Advisers

Infratil is being advised by Goldman Sachs as financial adviser and Buddle Findlay and Allens as legal advisers.

Any enquiries should be directed to:

Mark Flesher, Investor Relations, Infratil Limited

mark.flesher@infratil.com

NZX AND ASX ANNOUNCEMENT

14 March 2021

Tilt Renewables Board recommends acquisition proposal from a consortium of Powering Australian Renewables and Mercury NZ

Tilt Renewables Limited (**Tilt Renewables**) has entered into a Scheme Implementation Agreement (**SIA**) with Powering Australian Renewables (**PowAR**) and Mercury NZ Limited (**Mercury**) (together, **the Consortium**) under which it is proposed that PowAR will effectively acquire Tilt Renewables' Australian business and Mercury will acquire Tilt Renewables' New Zealand business. This transaction will be implemented by way of Scheme of Arrangement (the **Scheme**) where Tilt Renewables shareholders will receive NZ\$7.80 per share in cash.

Tilt Renewables' decision to enter into the SIA with the Consortium follows a competitive sale process during which Tilt Renewables received multiple binding proposals to acquire the company.

Bruce Harker, Chair of Tilt Renewables, said *"This compelling acquisition proposal is a result of Tilt Renewables' constant focus on delivering long-term value for shareholders and the Board is pleased that, with these new owners, the transition to renewables in Australia and New Zealand will continue to accelerate."*

PowAR has entered into a voting deed with Infratil. Under the terms of the deed, subject to customary conditions, Infratil has agreed to vote its entire 65.5% shareholding in Tilt Renewables in favour of the Scheme.

Mercury, currently Tilt Renewables' second largest shareholder, behind Infratil, with a 19.92% shareholding has agreed to vote its entire shareholding in favour of the Scheme, as a separate interest class.

In the absence of a superior proposal, and subject to the Scheme Consideration being within or above the Independent Adviser's value range, the Non-Conflicted Directors¹ of Tilt Renewables intend to vote their shares in favour of the proposed Scheme and recommend that other shareholders also vote in favour.

Tilt Renewables shareholders will have the opportunity to vote on the Scheme at a meeting likely to be held in around four months' time. Therefore, Tilt Renewables shareholders do not need to take any action at this time.

The Scheme is subject to customary conditions, some regulatory approvals (including Overseas Investment Office (NZ) and Foreign Investment Review Board (AU)), shareholder approval and ultimately High Court approval in New Zealand.

¹ Non-Conflicted Directors refer to Directors of Tilt Renewables who have not abstained from giving a recommendation due to a conflict of interest. The only Conflicted Director was Vincent Hawksworth, who is also CEO of Mercury.

Overview of the Scheme

Under the terms of the Scheme, Tilt Renewables shareholders will be entitled to receive NZ\$7.80² per share in cash (**Scheme Consideration**), subject to all applicable conditions being satisfied or waived and the Scheme being implemented.

The Scheme Consideration represents a:

- 99.0% premium to Tilt Renewables' closing share price on the NZX of NZ\$3.92 per share on 4 December 2020, being the last trading day prior to Infratil's announcement of its strategic review
- 98.6% premium to Tilt Renewables' 1-month volume weighted average price (VWAP) on the NZX to 4 December 2020 of NZ\$3.93 per share
- 102.7% premium to Tilt Renewables' 3-month VWAP on the NZX to 4 December 2020 of NZ\$3.85 per share

If the Scheme is implemented, a shareholder who invested in Tilt Renewables upon demerger in 2016, who participated in the entitlement offer in 2019 and capital return in 2020 will realise a return on investment, including dividends paid, of approximately 40% per annum.

CEO of Tilt Renewables, Deion Campbell, said: *"This proposal reflects the great capability of our team and the progress we have made in our relatively short history, since we were established and dual listed on the NZX and ASX in October 2016. With the support of our shareholders, we have developed and delivered a portfolio of flagship renewable assets, grown our industry-leading development pipeline and made a lasting positive impact on the communities in which we operate. I am excited by the next chapter in our history with PowAR and Mercury, which will be an acceleration of our shared vision: to drive the transition to renewables through everything we do."*

Under the SIA, Tilt Renewables will be bound by customary exclusivity provisions, including "no shop", "no talk" (subject to the fiduciary obligations of the Tilt Renewables Directors) and "notification" obligations as well as "matching" rights. A break fee of 1% will be payable by Tilt Renewables in certain circumstances, and a reverse break fee of 1% will be payable by the Consortium in certain circumstances.

A full copy of the SIA is attached to this announcement.

Background to the Scheme

On 7 December 2020 Infratil announced a strategic review of its 65.5% shareholding in Tilt Renewables, including assessing the potential divestment of its shareholding. As a result of this strategic review, Tilt Renewables announced on 4 February 2021 that it had received a number of non-binding indicative proposals to acquire 100% of the shares in the Company.

The Board of Tilt Renewables reviewed these non-binding indicative proposals and decided to grant a number of parties access to due diligence materials and executive management to enable these parties to prepare binding proposals.

After reviewing the binding proposals the Board of Tilt Renewables determined that the Scheme is in the best interests of the company.

² Subject to a reduction due to any payment of Permitted Dividend.

Indicative timetable and next steps

Tilt Renewables is preparing a Scheme Booklet which will contain information relating to the Scheme, including the reasons for the Non-Conflicted Directors' unanimous recommendation and details of the Scheme Meeting. The Scheme Booklet will also include an Independent Adviser's Report, prepared in accordance with guidance of the Takeovers Panel.

The process to implement the Scheme will include a Scheme Meeting where Tilt Renewables shareholders will be given the opportunity to vote on the Scheme. It is expected to take approximately five months for the Scheme to be implemented.

Advisers

Tilt Renewables is being advised by Lazard as financial adviser and Russell McVeagh and Ashurst as legal advisers.

Key Highlights

- Mercury NZ Limited (**Mercury**) to acquire Tilt Renewables' New Zealand assets and, following that, Powering Australian Renewables (**PowAR**) to acquire 100% of the outstanding shares in Tilt Renewables under a Scheme of Arrangement for NZ\$7.80 per share in cash
- The Scheme Consideration represents approximately a 99% premium to Tilt Renewables' share price immediately prior to the December 2020 announcement by Tilt Renewables' largest shareholder of a strategic review of its shareholding
- The Scheme Consideration implies a market capitalisation (equity value) for Tilt Renewables of approximately NZ\$2,956 million, an enterprise value of NZ\$3,124 million and a multiple of 28x EV/EBITDA (FY22)³
- The acquisition proposal highlights the quality and potential of the Tilt Renewables business, as the largest pure-play renewable energy platform across both the Australian and New Zealand energy markets
- Tilt Renewables' Board of Directors believes it is a compelling proposal and its Non-Conflicted Directors will vote the shares they each control in favour of the Scheme and recommend that other shareholders also vote in favour, in the absence of a superior proposal
- Tilt Renewables' largest shareholder, Infratil Limited (**Infratil**), has entered a Voting Deed in respect of its 65.5% shareholding under which it has agreed to vote in favour of the Scheme
- Tilt Renewables' second largest shareholder, Mercury, has agreed to vote its 19.92% shareholding in favour of the Scheme

ENDS

For further information please contact:

Steve Symons

Chief Financial Officer, Tilt Renewables

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³ Based on 379.0 million fully diluted shares on issue, comprising of 376.8 million ordinary shares outstanding and 2.2 million rights, net debt of A\$156m as at 30 September 2020, and broker consensus FY22 EBITDA of A\$105m as at 12 March 2021. Figures converted using an A\$ to NZ\$ exchange rate of 0.93.

About PowAR

PowAR was established in 2016 as a partnership between AGL and QIC on behalf of its managed clients QGIF and the Future Fund. The partners are long-term investors and have significant combined institutional capital with incumbent retail energy expertise as follows:

- QIC: independent investment manager owned by the Queensland Government with over A\$85 billion in assets under management (as at 31 December 2020);
- Future Fund: Australia's sovereign wealth fund with over A\$160 billion under management; and
- AGL: leading ASX-listed integrated energy business with over 4 million customers and a 11GW+ generation portfolio.

PowAR's current assets include the 199 MW Silverton Wind Farm, 102 MW Nyngan Solar Plant and 53 MW Broken Hill Solar Plant in New South Wales as well as the 453 MW Coopers Gap Wind Farm in Queensland.

About Mercury

Mercury, together with its subsidiaries, is an electricity generator and energy retailer in New Zealand. As a retailer of electricity and gas, Mercury currently services the energy needs of residential, commercial and industrial customers. Mercury is listed on the NZX Main Board and has a foreign exempt listing on the ASX. As at close of the Business Day on 11 March 2021, it had a market capitalisation on the NZX of approximately NZ\$8.0 billion.

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 (announce@nzx.com)

To ASX Limited (maogroup@asx.com.au)

And **To** Tilt Renewables Limited (steve.symons@tiltrenewables.com)

Relevant event being disclosed: Change in nature of relevant interest

Date of relevant event: 14 March 2021

Date this disclosure made: 15 March 2021

Date last disclosure made: 12 December 2018

Substantial product holder(s) giving disclosure

Full name(s): Infratil Limited and Infratil 2018 Limited

Summary of substantial holding

Class of quoted voting products: Ordinary shares in Tilt Renewables Limited (**TLT**)

Summary for Infratil Limited (**IFT**) and Infratil 2018 Limited (**Infratil 2018**)

For **this** disclosure,—

- (a) total number held in class: 246,936,375
- (b) total in class: 376,833,884
- (c) total percentage held in class: 65.529%

For **last** disclosure,—

- (a) total number held in class: 204,498,191
- (b) total in class: 312,973,000
- (c) total percentage held in class: 65.341%

Details of transactions and events giving rise to relevant event

Details of the transactions or other events requiring disclosure:

On 14 March 2021, Infratil 2018 entered into a voting deed with Pisa Obligor Co 1 Pty Ltd (ACN 648 537 017) (**Bidder**) (**Voting Deed**), a copy of which is attached to this notice (being 13 pages). Under the Voting Deed, Infratil 2018 has agreed, subject to various terms, that if TLT proposes a scheme of arrangement under Part 15 of the Companies Act 1993 in respect of the acquisition by Buyer of all of the shares in TLT at a price of no less than NZ\$7.80 per share in cash (the **Scheme**), Infratil 2018 will vote in favour of the Scheme at the relevant Scheme meeting.

Details after relevant event

Details for Infratil 2018 Limited

Nature of relevant interest(s): registered holder and beneficial owner, as qualified by the Voting Deed referred to above

For that relevant interest,—

- (a) number held in class: 246,936,375
- (b) percentage held in class: 65.529%
- (c) current registered holder(s): Infratil 2018 Limited
- (d) registered holder(s) once transfers are registered: N/A

For a derivative relevant interest, also—

- (a) type of derivative: N/A
- (b) details of derivative: N/A
- (c) parties to the derivative: N/A
- (d) if the substantial product holder is not a party to the derivative, the nature of the relevant interest in the derivative: N/A

Additional information

Address(es) of substantial product holder(s): Refer to the Schedule

Contact details: Refer to the Schedule

Nature of connection between substantial product holders: Refer to the Schedule

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: Pisa Obligor Co 1 Pty Ltd

Certification

I, Steve Nightingale, 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.

SCHEDULE

Additional Information

Substantial product holder	Nature of connection	Contact details
Infratil Limited	Parent company of Infratil 2018 Limited	5 Market Lane Wellington 6140 Nicholas Lough +64 4 473 2399 legal@hrlmorrison.com
Infratil 2018 Limited	Related body corporate of Infratil Limited	5 Market Lane Wellington 6140 Nicholas Lough +64 4 473 2399 legal@hrlmorrison.com

Dated

14 March 2021

VOTING DEED

PISA Obligor Co 1 Pty Ltd
(Bidder)

INFRATIL 2018 LIMITED
(Shareholder)

DEED dated

14 March 2021

PARTIES

1. **PISA Obligor Co 1 Pty Ltd** (ACN 648 537 017) ("**Bidder**")
2. **Infratil 2018 Limited** ("**Shareholder**")

INTRODUCTION

- A. The Bidder is proposing to enter into a scheme implementation agreement with Tilt Renewables Limited ("**Target**") under which the Bidder and the Target will agree to implement a scheme of arrangement under Part 15 of the Companies Act 1993 involving the acquisition by the Bidder of all of the shares in the Target.
- B. The Shareholder holds 246,936,375 ordinary shares in the Target.
- C. This Deed sets out the terms and conditions on which the Shareholder has agreed to vote in favour of the Scheme.

AGREEMENT

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions: In this Deed, unless the context otherwise requires:

"**Companies Act**" means the Companies Act 1993;

"**Competing Proposal**" has the same meaning as given to that term in the SIA;

"**Consideration**" means a price of no less than NZ\$7.80 per Share (as adjusted in accordance with the SIA) payable, subject to the Scheme Plan, in cash in one lump sum on the Implementation Date;

"**Court**" means the High Court of New Zealand;

"**Deed Poll**" means the deed poll to be entered into by the Bidder in favour of the Target Shareholders in accordance with the Scheme, on the same terms as the final form of deed poll exchanged by email between the parties' legal advisors prior to execution of this Deed for identification purposes;

"**End Date**" has the same meaning as given to that term in the SIA;

"**Implementation Date**" has the same meaning as given to that term in the SIA;

"**Mercury**" means Mercury NZ Limited;

"**Permitted Dividend**" has the same meaning as given to that term in the SIA;

"**Representatives**" in relation to the Shareholder means:

- (a) any director, officer, employee or agent of the Shareholder; and

- (b) any individual who is an accountant, auditor, financier, financial adviser, legal adviser, technical adviser or other expert adviser or consultant and who has been engaged to advise the Shareholder in relation to the transaction contemplated by this Deed;

"**Scheme**" means a scheme of arrangement under Part 15 of the Companies Act 1993 involving, amongst other things, the acquisition by the Bidder of all of the shares in the Target on terms consistent with the SIA and the Scheme Plan including payment of the Consideration for the Shares;

"**Scheme Meeting**" means any meeting of Target Shareholders for the purposes of section 236A(2)(a) of the Companies Act ordered by the Court to be convened under section 236(2)(b) of the Companies Act (and includes any adjourned meeting);

"**Scheme Plan**" has the same meaning as given to that term in the SIA;

"**Share**" means a fully paid ordinary share in the Target;

"**SIA**" means the scheme implementation agreement on the same terms as the final form of scheme implementation exchanged by email between the parties' legal advisors prior to execution of this Deed for identification purposes;

"**Specified Shares**" means:

- (a) the 246,936,375 Shares held or controlled by the Shareholder as at the date of this Deed; together with
- (b) any other Shares acquired by the Shareholder after the date of this Deed;

"**Takeovers Code**" means the Takeovers Code set out in the Schedule to the Takeovers Code Regulations 2000 (SR2000/210), including by any applicable exemption granted by the Takeovers Panel under the Takeovers Act 1993;

"**Takeovers Panel**" means the Takeovers Panel established by section 5(1) of the Takeovers Act 1993;

"**Target Shareholder**" means each person who is registered as the holder of a Share from time to time; and

"**Voting Rights**" has the meaning given in rule 3 of the Takeovers Code.

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

- (a) references to dates and times are to dates and times in New Zealand;
- (b) references to currency are to New Zealand currency;
- (c) headings are for convenience only and do not affect interpretation;
- (d) a reference to a statute or other law is a reference to a New Zealand statute or other law and includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;

- (e) a reference to "including" means "including but not limited to" and "include" and "includes" have corresponding meanings; and
- (f) a reference to "prior to termination of this Deed" means at all times on and from the date of this Deed until the effective time for termination of this Deed.

2. SIA

- 2.1 The Bidder will enter into the SIA on the date of this Deed.

3. VOTING

- 3.1 The Shareholder agrees that if the Scheme is proposed by the Target to the Target Shareholders, then the Shareholder will vote, or will procure that the chairman of the Target is irrevocably (except if this Deed is terminated in accordance with its terms) appointed as proxy and that the chairman is irrevocably (except if this Deed is terminated in accordance with its terms) directed to vote, all of the Specified Shares in favour of any resolution to be put to the Target Shareholders at the Scheme Meeting to approve the Scheme.
- 3.2 The Bidder does not, under this Deed, become the controller of the Voting Rights attaching to the Specified Shares in any way other than in respect of the voting commitment in clause 3.1.

4. RESTRICTIONS

- 4.1 To give effect to clause 3.1, the Shareholder will not, prior to the termination of this Deed:
 - (a) sell, transfer, grant any new security interest, adverse interest or encumbrance over, or otherwise dispose of any legal, beneficial or other interest in, or control over, any of the Specified Shares; or
 - (b) agree or commit to do any action prohibited by clause 4.1(a),
other than for the transfer of the Specified Shares to the Bidder under the Scheme.
- 4.2 Prior to termination of this Deed, the Shareholder must not, and must procure that each of its Representatives does not, directly or indirectly:
 - (a) solicit, invite, encourage or initiate any Competing Proposal or any offer, proposal, expression of interest, enquiry, negotiation or discussion with any third party in relation to, or for the purpose of, or that may reasonably be expected to encourage or lead to, a Competing Proposal; or
 - (b) assist, encourage, procure or induce any person to do any of the things referred to in clause 4.2(a) on its behalf.
- 4.3 Prior to termination of this Deed, the Shareholder must not, and must procure that its Representatives do not, directly or indirectly:
 - (a) enter into, permit, continue or participate in, negotiations or discussions with any third party in relation to a Competing Proposal, or for the purpose of or that may reasonably be expected to encourage or lead to a Competing Proposal; or

- (b) assist, encourage, procure or induce any person to do any of the things referred to in clause 4.3(a) on its behalf,

even if the Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by the Shareholder or any of its Representatives, was received before the date of this Deed, and/or has been publicly announced.

- 4.4 For the avoidance of doubt and without limiting clause 4.3, prior to termination of this Deed the Shareholder must cease all discussions and negotiations with any third party who, prior to the date of this Deed, provided to the Shareholder or the Target an offer or proposal in the nature of a Competing Proposal.
- 4.5 Without limiting clause 4.3, prior to termination of this Deed, the Shareholder must not, and must procure that each of its Representatives does not, directly or indirectly:
 - (a) make available to any third party or cause any third party to receive or have access to, any information relating to the Target or any of its subsidiaries that may reasonably be expected to assist such third party in formulating, developing or finalising a Competing Proposal; or
 - (b) assist, encourage, procure or induce any person to do any of the things referred to in clause 4.5(a) on its behalf.
- 4.6 Prior to termination of this Deed, the Shareholder must:
 - (a) not do any act, matter or thing for the purpose of, or which it is aware is reasonably likely to have the effect of, the Shareholder becoming a different interest class from other shareholders in the Target (other than Mercury) in respect of voting at the Scheme Meeting (excluding any act matter or thing reasonably required to comply with contractual or other obligations binding on the Shareholder at the date of this Deed or to comply with law); and
 - (b) immediately notify the Bidder if the Shareholder receives any communications from the Takeovers Panel (with a copy of any such communication), or otherwise becomes aware, that the Shareholder may be a different interest class from other shareholders in the Target (other than Mercury) in respect of voting at the Scheme Meeting.

For the avoidance of doubt, the Bidder acknowledges that the entry into, and performance, of this Deed by the Shareholder does not breach clause 4.6.

- 4.7 Nothing in this clause 4 prevents the Shareholder from:
 - (a) providing information required to be provided by law, any court of competent jurisdiction, any government agency, the NZX Listing Rules or the ASX Listing Rules or in connection with investor presentations or roadshows in accordance with its usual practices; or
 - (b) making presentations to, and responding to bona fide enquiries from, stockbrokers, portfolio investors and equity market analysts in accordance with its usual practices.

5. WARRANTIES AND ACKNOWLEDGEMENTS

- 5.1 **Mutual:** Each party warrants to the other that:

- (a) it has the legal right, authority and full power to enter into this Deed and to perform its obligations under it;
- (b) it has taken all necessary corporate and other actions to authorise this Deed's execution, delivery and performance; and
- (c) this Deed constitutes valid and binding obligations enforceable against it in accordance with its terms.

5.2 **Specified Shares:** The Shareholder warrants to the Bidder that as at the date of this Deed it is the legal and beneficial owner of 246,936,375 Shares.

5.3 **Nature of arrangement:** The parties acknowledge that:

- (a) this Deed has been concluded on commercial, arms' length terms;
- (b) the Bidder and the Shareholder are not acting jointly or in concert;
- (c) other than as set out in this Deed, there are no ongoing covenants between the Bidder and the Shareholder; and
- (d) the legal relationship between the Bidder and the Shareholder will cease on the earlier of (i) the Implementation Date and (ii) termination of this Deed in accordance with clause 6.1 or 6.2

5.4 The Shareholder is required to make a declaration under section 14-225 of Schedule 1 of the Taxation Administration Act 1953 (Cth) that the shares in the Target are not and will not be "indirect Australian real property interests" (as defined under the Income Tax Assessment Act 1997 (Cth)) from the date of this Deed up to and including the Implementation Date. The declaration must be made not more than 6 months prior to the Implementation Date. The parties acknowledge that, if the Bidder knows such declaration made by the Shareholder to be false, the Bidder may withhold an amount from the Consideration as required under Subdivision 14-D of Schedule 1 of the Taxation Administration Act 1953 (Cth).

6. TERMINATION

6.1 **Automatic termination:** This Deed will automatically terminate on the earlier of:

- (a) 5.00pm on the date 1 day after the date of this Deed if the Target and the Bidder have not entered into the SIA by that time;
- (b) 11.59pm on the Implementation Date; and
- (c) the date on which the SIA is terminated, with effect from the time of such termination.

6.2 **Shareholder termination:** The Shareholder may terminate this Deed at any time by written notice to the Bidder if:

- (a) any of the following occur:
 - (i) the SIA, the Deed Poll or the Scheme Plan in the form attached to the SIA is amended or varied;
 - (ii) any rights or obligations under the SIA, the Deed Poll or the Scheme Plan in the form attached to the SIA are waived; or

- (iii) any approvals, agreements or similar are given under the SIA, the Deed Poll or the Scheme Plan in the form attached to the SIA,

and the effect of such amendment, variation, waiver, approval or agreement:

- (iv) is to reduce the Consideration (excluding, for the avoidance of doubt, a reduction for a Permitted Dividend in accordance with the SIA); or
- (v) is to change the form of the Consideration payable to Shareholders (other than Mercury); or
- (vi) is to defer payment of all or part of the Consideration to Shareholders (other than to Mercury) to a date which is after the Implementation Date; or
- (vii) is to extend the End Date; or
- (viii) is to impose additional conditionality on the Scheme which materially adversely affects the benefit of the Scheme for the Shareholders as a whole; or
- (ix) otherwise materially adversely affects the benefit of the Scheme for the Shareholders as a whole.

6.3 Effect of termination: If this Deed is terminated under clause 6.1 or 6.2 the parties will be released from their obligations under this Deed and no party will have any claim against any other party arising under or in connection with such termination except in respect of any breach occurring before termination.

7. NOTICES

7.1 Writing: Each notice or other communication under this Deed (each a '**notice**') shall be in writing and delivered personally or sent by email.

7.2 Addresses: Each notice shall be sent to the address of the relevant party set out below:

BUDDLE FINDLAY

Infratil 2018 Limited
5 Market Lane
Wellington 6140
New Zealand

Email: legal@hrlmorrison.com
Attention: Head of Legal

Powering Australian Renewables
Level 10, 70 Phillip Street, Sydney NSW 2000,
Australia

Email: gdutailis@parf.com.au
Attention: Geoff Dutailis

With a copy (which will not constitute notice) to:

Harmos Horton Lusk
Level 33, Vero Centre
48 Shortland Street
Auckland

Email: andrew.harmos@hhl.co.nz /
nathanael.starrenburg@hhl.co.nz
Attention: Andrew Harmos / Nathanael
Starrenburg

7.3 **Receipt:** A notice under this Deed is deemed to be received if:

- (a) delivered personally, when delivered;
- (b) sent by email, when actually received in readable form by the recipient,

provided that any notice deemed received after 5pm or on a non-business day shall be deemed to have been received on the next business day.

8. GENERAL

8.1 **Compliance with applicable law:** Nothing in this Deed requires any party to do any act, matter or thing in contravention of any law including the Takeovers Code, the Overseas Investment Act 2005, the Financial Markets Conduct Act 2013 or the Companies Act.

8.2 **Variation and waiver:**

- (a) This Deed may only be varied in writing signed by the parties.
- (b) No waiver of any breach, or failure to enforce any provision, of this Deed at any time by either party will in any way affect, limit or waive that party's right thereafter to enforce and compel strict compliance with the provisions of this Deed.

- 8.3 **No assignment:** No party will, directly or indirectly, assign, transfer or otherwise dispose of any rights or interests of that party in, or obligations or liabilities under, this Deed.
- 8.4 **Costs:** The parties will each bear their own costs and expenses incurred in connection with the preparation, negotiation and implementation of this Deed and any documentation pertaining hereto.
- 8.5 **Severability:** If any part of this Deed is held by any court or administrative body of competent jurisdiction to be illegal, void or unenforceable, such determination will not impair the enforceability of the remaining parts of this Deed, which will remain in full force, and such provision will be deemed to be modified to the extent necessary to render it legal, valid and enforceable.
- 8.6 **Entire agreement:** Other than any confidentiality agreement entered into between the parties, this Deed constitutes the entire agreement and understanding (express and implied) between the parties relating to the subject matter of this Deed and supersedes and cancels all previous agreements and understandings between the parties relating thereto, whether written or oral.
- 8.7 **Counterparts:** This Deed may be signed in two or more counterparts (including scanned copies), all of which when taken together shall constitute one and the same instrument and a binding and enforceable agreement between the parties.
- 8.8 **Governing law:** This Deed shall be governed by, and construed in accordance with, New Zealand law, and the parties submit to the non-exclusive jurisdiction of the New Zealand courts.

BUDDLE FINDLAY

EXECUTED AND DELIVERED AS A DEED

Signed, sealed and delivered by **PISA
OBLIGOR CO 1 PTY LTD** in accordance
with section 127 of the *Corporations Act
2001* (Cth) by:



Signature of director

CHERYL BART

Name of director (print)



Signature of director/secretary

ANKIT MEHTA

Name of director/secretary (print)

BUDDLE FINDLAY

EXECUTED as a DEED for
and on behalf of INFRATIL
2018 LIMITED by

)
)
)



Signature of Director / Attorney

Jason Peter Boyes

Print name




Signature of Director / Attorney

Phillippa Mary Harford

Print name

In the presence of



Witness signature

Kellee Monique Clark

Full name

Wellington

Address

Lawyer

Occupation

In the presence of



Witness signature

Kellee Monique Clark

Full name

Wellington

Address

Lawyer

Occupation

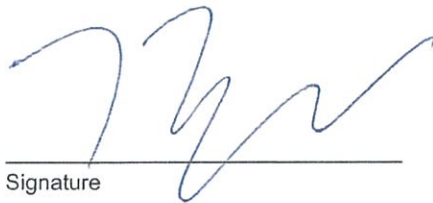
Note: If signing by two attorneys, each attorney's signature must be witnessed.

CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, Jason Peter Boyes of Wellington, New Zealand, Executive, certify that:

1. By deed dated 12 March 2021, Infratil 2018 Limited of Wellington appointed me its attorney.
2. I have not received notice of any event revoking the power of attorney and to the best of my knowledge and belief no such notice has been received by Infratil 2018 Limited or by any employee or agent of that body corporate.

SIGNED at Wellington this 14th day of March 2021.


Signature

CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, Phillippa Mary Harford of Wellington, New Zealand, Chief Financial Officer, certify that:

1. By deed dated 12 March 2021, Infratil 2018 Limited of Wellington appointed me its attorney.
2. I have not received notice of any event revoking the power of attorney and to the best of my knowledge and belief no such notice has been received by Infratil 2018 Limited or by any employee or agent of that body corporate.

SIGNED at Wellington this 14th day of March 2021.



Signature