

Disclosure of beginning to have substantial holding

Section 276, Financial Markets Conduct Act 2013

To NZX Limited

To ASX Limited

And

To Tilt Renewables Limited ("**Tilt**")

Date this disclosure made: 15 March 2021

Date on which substantial holding began: 12 March 2021 at approximately 7:45pm (NZDT)

Substantial product holder(s) giving disclosure

Full name(s): Pisa Obligor Co 1 Pty Ltd (ACN 648 537 017) ("**Pisa**")

Summary of substantial holding

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

Summary for Pisa

For this disclosure,—

- (a) total number held in class: 75,075,962
- (b) total in class: 376,833,884
- (c) total percentage held in class: 19.923%

Details of relevant interests

Details for Pisa

Nature of relevant interest(s): Conditional power to control the exercise of voting rights attached to shares in Tilt and conditional power to control the disposal of shares in Tilt. The relevant agreement is attached as the Appendix (Mercury Voting Deed, 12 pages).

For that relevant interest,—

- (a) number held in class: 75,075,962
- (b) percentage held in class: 19.923%
- (c) current registered holder(s): Mercury NZ Limited ("**Mercury**")
- (d) registered holder(s) once transfers are registered: N/A

Details of transactions and events giving rise to substantial holding

Details of the transactions or other events requiring disclosure:

On 12 March 2021 Pisa entered into a voting deed with Mercury (the "**Mercury Voting Deed**") under which Mercury gave various voting undertakings to Pisa, including that if Pisa, Mercury and Tilt enter into a scheme implementation agreement in respect of a scheme of arrangement under which: (a) Mercury is to acquire from Tilt all of the shares in Tilt's New Zealand subsidiaries; and (b) Pisa is then to acquire all of the shares in Tilt (which will continue to own Tilt's Australian subsidiaries), then Mercury will vote all of its Tilt shares in favour of the scheme.

This notice should be read in conjunction with an accompanying notice dated 15 March 2021 advising of termination of the Mercury Voting Deed on 13 March 2021.

Additional information

Address(es) of substantial product holder(s):

Pisa Obligor Co 1 Pty Ltd (ACN 648 537 017)
c/- Harmos Horton Lusk Limited, Level 33
Vero Centre, 48 Shortland Street
Auckland 1010, New Zealand

Contact details:

Andrew Harmos
Phone: +64 9 921 4300
Email: andrew.harmos@hhl.co.nz

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: Mercury NZ Limited

Certification

I, Andrew William Harmos, 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.

Appendix – Mercury Voting Deed

VOTING DEED

**IN RESPECT OF A SCHEME OF ARRANGEMENT INVOLVING TILT
RENEWABLES LIMITED**

Dated

12 March 2021

Parties

PISA OBLIGOR CO 1 PTY LTD (ACN 648 537 017) (“Acquirer”)

MERCURY NZ LIMITED (“Mercury”)

Introduction

- A. The Acquirer and Mercury intend to make an offer to Tilt Renewables Limited (“**Company**”) to enter into a scheme implementation agreement (“**SIA**”) setting out the basis on which those parties will implement a scheme of arrangement under which:
- (a) Mercury will acquire from the Company all of the shares in the Company’s New Zealand subsidiaries (“**NZ Separation**”); and
 - (b) following Mercury’s acquisition of the Company’s New Zealand subsidiaries, the Acquirer will acquire all of the shares in the Company,
- (the “**Scheme**”).
- B. Mercury holds shares in the Company.
- C. Mercury has agreed to vote its shares in the Company in favour of the Scheme, to not sell those shares and to certain other matters, on the terms set out in this Deed.

This Deed Records

1. INTERPRETATION

1.1 **Defined terms:** In this Deed, unless the context otherwise requires:

“**Business Day**” means any day other than a Saturday, Sunday, a statutory public holiday in Auckland, New Zealand or Sydney, Australia and excluding any day between 25 December 2021 and 2 January 2022 (both dates inclusive).

“**Competing Offer**” has the meaning set out in clause 6.1.

“**Conflicted Director**” means a Company Director that abstains from giving the recommendation referred to in clause 6.2(f)(ii) whether due to a conflict of interest or otherwise.

“Consortium Proposal” means the Scheme proposal set out in the binding offer letter, dated on or about the date of this Deed, from Mercury and the Acquirer to the Company.

“Independent Director” means a Company Director who the Company has advised NZX Limited is an “independent director” for the purposes of the NZX Main Board Listing Rules.

“Mercury Shares” means the Shares referred to in clause 2.1 together with all other Shares in respect of which Mercury acquires beneficial ownership or control after the date of this Deed.

“Non-Conflicted Director” means each Independent Director and every other Company Director that is not a Conflicted Director.

“NZ Separation” has the meaning set out in paragraph A of the Introduction.

“Prohibited Transaction” has the meaning set out in clause 5.1(b)(ii).

“Scheme” has the meaning set out in paragraph A of the Introduction.

“Schemes Exemption Notice” means the Takeovers Code (Voting Deeds for Schemes of Arrangement) Exemption Notice 2020.

“Share” means a fully paid ordinary share in the Company.

“Shareholder” means a person who is registered in the Company’s share register as the holder of a Share from time to time.

“SIA” has the meaning set out in paragraph A of the Introduction.

“Superior Proposal” means a written bona fide Competing Offer which:

- (a) is received by Mercury or of which Mercury becomes aware after the date of this Deed;
- (b) did not result, directly or indirectly, from any breach of clause 5.1;
- (c) involves the acquisition of all of the Mercury Shares for cash;
- (d) is reasonably capable of being implemented; and
- (e) would, if implemented, be superior to the Consortium Proposal (taking into account all aspects of the Consortium Proposal and the Competing Offer (including any applicable conditions and the likelihood of satisfying those conditions)).

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; and

- (e) a reference to "including" means "including but not limited to" and "include" and "includes" have corresponding meanings.

2. MERCURY SHAREHOLDING WARRANTY AND TAX DECLARATION

- 2.1 **Warranty:** Mercury represents and warrants that, on the date of this Deed, it is the legal and beneficial owner, and controller, of 75,075,962 Shares, representing 19.92% of the Shares on issue on the date of this Deed (assuming that the Company has 376,833,884 Shares on issue on the date of this Deed).
- 2.2 **Tax declaration:** Mercury acknowledges that if the SIA is entered into, Mercury is required to make a declaration under section 14-225 of Schedule 1 of the Taxation Administration Act 1953 (Cth) that the Mercury Shares 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 implementation of the Scheme. The declaration must be made not more than 6 months prior to the implementation date for the Scheme. The parties acknowledge that, if the Acquirer knows or reasonably believes such declaration made by Mercury to be false, the Acquirer may withhold an amount from the Consideration as required under Subdivision 14-D of Schedule 1 of the Taxation Administration Act 1953 (Cth). For the avoidance of doubt, the Acquirer would not treat a declaration as being false merely because Mercury represents that the Mercury Shares are not Taxable Australian Property. Mercury and the Acquirer confirm to each other that, having made due enquiry, neither party consider that the Mercury Shares are, nor will be, "indirect Australian real property interests" (as defined under the Income Tax Assessment Act 1997 (Cth)).

3. VOTING COMMITMENT

- 3.1 **Application of this clause 3:** This clause 3 applies if the Acquirer, Mercury and the Company enter into an SIA in respect of the Scheme, and takes effect on and from the date of that SIA.
- 3.2 **Separate interest class:** The Acquirer and Mercury acknowledge that, as a result of Mercury's involvement in the NZ Separation aspects of the Scheme, Mercury will form a separate interest class (as defined in section 236A(5) of the Companies Act 1993) of Shareholders for the purposes of section 236A(4)(a) of the Companies Act 1993 in respect of the Scheme.
- 3.3 **Voting commitment:** Mercury irrevocably agrees to vote in favour of the Scheme all of the Mercury Shares that it holds or controls on the record date for voting on the Scheme.
- 3.4 **Takeovers Panel enforcement:** Consistent with the Takeovers Panel's Guidance Note on Schemes of Arrangement, clause 3.3 is for the benefit of, and intended to be enforceable by, the Takeovers Panel under subpart 1 of part 2 of the Contract and Commercial Law Act 2017.
- 3.5 **Takeovers Code exemption:**
- (a) The parties acknowledge and agree that if:
- (i) the Acquirer and its associates (as defined in the Takeovers Code) become the holders or controllers of more than 20% of the voting rights in the Company (including as a result of clause 3.3 and any other arrangement under which a Shareholder agrees to vote in favour of the Scheme); and

- (ii) the Acquirer, Mercury and the Company have entered into an SIA in respect of the Scheme,

then the Acquirer will rely on the Schemes Exemption Notice in respect of this Deed, in which case this Deed will be a “voting agreement”, and clause 3.3 will be a “voting commitment”, under the Schemes Exemption Notice.

- (b) For the purposes of the condition in clause 5(a) of the Schemes Exemption Notice, the parties agree that if the Acquirer relies on the Schemes Exemption Notice in respect of this Deed, the Acquirer does not become the controller of voting rights attaching to the Mercury Shares in any way other than under clause 3.3.

4. **ADDITIONAL VOTING REQUIREMENTS**

- 4.1 **Agreement to vote against other transactions:** Subject to clause 10.8, if the Company seeks the approval of Shareholders to, or in connection with, a Prohibited Transaction or a transaction involving the acquisition of Mercury Shares, Mercury must vote all of the Mercury Shares against the Prohibited Transaction or other transaction involving the acquisition of Mercury Shares. For the avoidance of doubt, this clause 4.1 ceases to apply on termination or expiry of this Deed in accordance with its terms.

5. **STANDSTILL**

- 5.1 **Prohibited dealings:** Subject to clause 5.2, Mercury will not do, or agree to do, directly or indirectly, any of the following:

- (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 Mercury Shares;
- (b) invite, seek, solicit, encourage, or initiate any person other than the Acquirer (a “**Third Party**”) to:
 - (i) acquire any interest in, or control over, any of the Mercury Shares;
 - (ii) make, propose or announce:
 - (A) a transfer of control of the Company or an acquisition of a material part of the business of the Company and its subsidiaries;
 - (B) an acquisition of, or merger with, the Company; or
 - (C) any other transaction which could reasonably be expected to be inconsistent with the Scheme or result in the Acquirer abandoning or failing to proceed with the Scheme,

whether by way of a takeover offer, scheme of arrangement, sale or purchase of assets, joint venture dual-listed company structure (or other synthetic merger) or other equivalent transaction (a “**Prohibited Transaction**”).

- 5.2 **Permitted dealings:** Clause 5.1 does not prevent:

- (a) Mercury from transferring Mercury Shares to the Acquirer on the Scheme becoming effective;

- (b) any act, matter or thing undertaken by Mercury with the Acquirer's prior written approval; or
- (c) any individual who represents Mercury on the board of the Company from doing any act, matter or thing in his or her capacity as a director of the Company, provided that the relevant act, matter or thing does not result in a breach of the SIA by the Company.

Clause 5.1(a) ceases to apply if an SIA is not signed with the Company within 40 Business Days of this Deed.

6. NOTIFICATION AND MATCHING RIGHTS

6.1 **Notification:** Mercury must promptly (and, in any event, within 24 hours) provide written notice to the Acquirer if Mercury directly or indirectly receives, or becomes aware of, any offer, proposal, expression of interest or enquiry in respect of an actual or potential Prohibited Transaction or transaction involving the acquisition of Mercury Shares ("**Competing Offer**"), which notice must set out reasonable details of the Competing Offer (including the identity of the person making the Competing Offer, the price and legal structure of the Competing Offer and the other material terms and conditions of the Competing Offer that Mercury is aware of).

6.2 **Matching rights:**

- (a) This clause 6.2 applies if the Acquirer, Mercury and the Company do not enter into an SIA in respect of the Scheme. It terminates and ceases to have effect on and from the date on which such an SIA is signed.
- (b) This clause 6.2 is additional to Mercury's obligations under clause 6.1.
- (c) If Mercury receives or becomes aware of a Competing Offer that Mercury considers to be a Superior Proposal, then Mercury may give notice to the Acquirer setting out all material terms of the Superior Proposal that Mercury is aware of (including, to the extent Mercury is aware, the person who has made the Superior Proposal, the amount and form of consideration to be offered, the material conditions to which it is subject, the proposed timetable and any break fee arrangements) ("**Superior Proposal Notice**").
- (d) The Acquirer may, within 5 Business Days after the Superior Proposal Notice, propose a transaction to Mercury as an alternative to the Superior Proposal ("**Alternative Transaction**").
- (e) If the Acquirer proposes an Alternative Transaction under clause 6.2(d), Mercury must within 5 Business Days after receiving the proposed Alternative Transaction consider, acting reasonably and in good faith, whether the Alternative Transaction is no less favourable to Mercury than the Superior Proposal and must immediately notify the Acquirer of its conclusion.
- (f) If:
 - (i) the Acquirer does not propose an Alternative Transaction within 5 Business Days after the Superior Proposal Notice; or
 - (ii) a majority of the Company's Non-Conflicted Directors do not recommend the Company's shareholders vote in favour (or a majority change their recommendation), in respect of

any Company shareholder approvals required to approve an Alternative Transaction, or otherwise indicate that they do not intend to recommend the Alternative Transaction; or

- (iii) the Acquirer does not within 20 Business Days after the Superior Proposal Notice enter into binding implementation agreements with the Company and/or other relevant counterparties in a form satisfactory to Mercury (acting reasonably) to give effect to an Alternative Transaction; or
- (iv) Mercury notifies the Acquirer under clause 6.2(e) that Mercury considers, acting reasonably and in good faith, that the Alternative Transaction is less favourable to Mercury than the Superior Proposal,

Mercury may terminate this Deed with immediate effect by notice to the Acquirer.

- (g) If Mercury notifies the Acquirer under clause 6.2(e) that Mercury considers, acting reasonably and in good faith, that the Alternative Transaction is no less favourable to Mercury than the Superior Proposal, then each party must co-operate reasonably and in good faith, and otherwise use their respective reasonable endeavours, to (as applicable in the circumstances):
 - (i) propose the Alternative Transaction to the Company;
 - (ii) negotiate and enter into binding implementation arrangements for the Alternative Transaction; and
 - (iii) otherwise implement the Alternative Transaction.

7. EXPIRY AND TERMINATION

7.1 Automatic expiry: This Deed will expire:

- (a) if an SIA is signed by the Acquirer, Mercury and the Company, on the date of implementation of the Scheme; or
- (b) if the SIA is terminated in accordance with its terms, on the date of such termination; or
- (c) if an SIA is not signed, on the date that is 40 Business Days after the date of this Deed.

7.2 Matching rights termination: Mercury may terminate this Deed under clause 6.2(f).

7.3 Termination by Mercury: If the Scheme becomes effective and the Acquirer fails to pay the Scheme consideration to Mercury in accordance with the scheme plan for the Scheme, Mercury may terminate this Deed with immediate effect by notice to the Acquirer.

7.4 Accrued rights and obligations: The rights and obligations of each party that accrued prior to the expiry or termination of this Deed will survive the expiry or termination of this Deed.

8. MUTUAL WARRANTIES

8.1 Warranties: Each party represents and warrants to the other that:

- (a) it has the power and authority to enter into, exercise its rights and perform and comply its obligations under, this Deed; and

- (b) its obligations are legal, valid and binding and are enforceable against it in accordance with the terms of this Deed.

9. NOTICES

9.1 **Notice:** Every notice ("**Notice**") for the purposes of this Deed will:

- (a) be in writing; and
- (b) be delivered in accordance with clause 9.2.

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

- (a) delivery to the physical address of the relevant party; or
- (b) sending it by email to the email address of the relevant party.

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

- (a) specified in clause 9.1(a) is deemed received at the time of delivery;
- (b) specified in clause 9.2(b) is deemed received:
 - (i) if sent between the hours of 9am and 5pm (local time) on a local Business Day, at the time of transmission; or
 - (ii) if subclause (i) does not apply, at 9am (local time) on the local Business 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 Business Day" is a Business Day in that place.

9.4 **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.

Acquirer:

Attention: Geoff Dutailis

Physical address: Level 10, 70 Phillip Street, Sydney NSW 2000, Australia

Email address: gdutailis@parf.com.au

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

Attention: Andrew Harnos / Nathanael Starrenburg, Harnos Horton Lusk

Physical address: Level 33, Vero Centre, 48 Shortland Street, Auckland, New Zealand

Email address: andrew.harnos@hhl.co.nz
nathanael.starrenburg@hhl.co.nz

Mercury:

Attention: Samuel Moore / Howard Thomas

Physical address: 33 Broadway, Newmarket, Auckland, 1023, New Zealand

Email address: samuel.moore@mercury.co.nz / general.counsel@mercury.co.nz

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

Attention: Roger Walls, Chapman Tripp

Physical address: Level 34, PwC Tower, 15 Customs Street West, Auckland, New Zealand

Email address: roger.wallis@chapmantripp.com

10. GENERAL


- 10.1 **Relationship:** Nothing in this Deed will create, constitute or evidence any partnership, joint venture, agency, or trust relationship between the parties and neither party will have any authority to act for, or to incur any obligation on behalf of, the other party.
- 10.2 **Variation and waiver:** This Deed may only be varied in writing signed by the parties. 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.
- 10.3 **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.
- 10.4 **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.
- 10.5 **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.
- 10.6 **Entire agreement:** 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.
- 10.7 **Counterparts:** This Deed may be signed in any number of counterparts, including scanned copies, all of which will together constitute one and the same instrument and a binding and enforceable Deed between the parties. Either party may execute this Deed by signing any such counterpart.
- 10.8 **Compliance with applicable law:** Nothing in this Deed requires any party to do any act, matter or thing in contravention of the Takeovers Code, the Financial Markets Conduct Act 2013 or the Companies Act 1993.
- 10.9 **Governing law:** This Deed is governed by, and shall be construed in accordance with, the laws of New Zealand. Each party unconditionally and irrevocably submits to the non-exclusive jurisdiction of the courts of New Zealand in respect of all matters arising out of this Deed and waives any right that

party may have to object to an action being brought in those courts, to claim that the action has been brought in an inconvenient forum, or to claim that those courts do not have jurisdiction.

- 10.10 **Service of process:** The Acquirer appoints Andrew Harmos and Nathanael Starrenburg of Harmos Horton Lusk as its agent in New Zealand for service of process and other documents in any legal action or proceedings arising out of or in connection with this Deed and will ensure that at all times prior to expiry or termination of this Deed, Harmos Horton Lusk or a replacement appointed by the Acquirer, is authorised and able to accept service of process and other documents on its behalf in New Zealand.


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
ANKET MEHTA

Name of director/secretary (print)

MERCURY NZ LIMITED by:

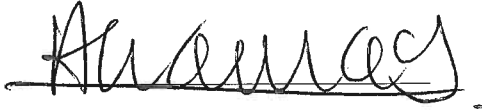


Signature of duly authorised person

WILLIAM MECK

Name of duly authorised person

in the presence of:



Name:

Occupation: **Howard Carl Thomas**

Address: **Solicitor
Auckland**