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 Directors[1] 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.

[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.

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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.

Overview of the Scheme

Under the terms of the Scheme, Tilt Renewables shareholders will be entitled to receive NZ$7.80[2] 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.

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

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.

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

[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.

- Tilt Renewables' second largest shareholder, Mercury, has agreed to vote its 19.92% shareholding in favour of the Scheme

ENDS

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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.

Scheme Implementation Agreement for the acquisition of Tilt Renewables Limited

PARTIES

Pisa Obligor Co 1 Pty Ltd

Acquirer

Tilt Renewables Limited

Company

Mercury NZ Limited

Mercury

CONTENTS

Agreement dated 14 March 2021

PARTIES

Pisa Obligor Co 1 Pty Ltd (ACN 648 537 017)

(the "**Acquirer**")

Tilt Renewables Limited (Company Number 1212113, a duly incorporated company having its registered office at Russell McVeagh, Level 30, Vero Centre, 48 Shortland Street, Auckland 1010, New Zealand)

(the "**Company**")

Mercury NZ Limited (Company Number 936901)
("**Mercury**")

INTRODUCTION

A. The Company is listed on the NZX Main Board and the ASX (under a foreign exempt listing) under the ticker code 'TLT'.

B. Mercury, through its wholly owned subsidiary Mercury Windfarms, proposes to acquire the NZ Transferring Assets from the Tilt Renewables Group and, immediately after that, the Acquirer proposes to acquire all of the shares in the Company, in each case, by way of a scheme of arrangement under Part 15 of the Companies Act.

C. The Company, the Acquirer and Mercury have entered into this agreement to record the arrangements by which they intend to propose and implement the Scheme.

AGREEMENT

1. INTERPRETATION

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

"**Acquirer Group**" means the Acquirer and each of its Related Companies (but excluding members of the Tilt Renewables Group) and also includes:

(a) Future Fund Investment Company No. 5 Pty Limited and its Related Companies;

(b) AGL Energy Limited and its Related Companies; and

(c) the constituent entities and trusts of the QIC Global Infrastructure Fund and its investors.

"**Acquirer Information**" means all information given by the Acquirer to the Company for inclusion in the Scheme Booklet, being:

(a) information about the Acquirer Group and its businesses and interests;

(b) the information contemplated by clause 4.2(a); and

(c) any other information which the Acquirer and the Company agree (acting reasonably) is Acquirer Information and that is identified in the Scheme Booklet as such.

"**Acquirer Undertakings**" means the undertakings set out in Part 2 of Schedule 3.

"**Acquirer Warranties**" means the warranties set out in Part 1 of Schedule 3.

"**AM Indemnified Person**" means:

(a) in respect of the Acquirer, each member of the Acquirer Group and each of their respective directors, officers, employees and financial and legal advisers; and

(b) in respect of Mercury, each member of the Mercury Group and each of their respective directors, officers, employees and financial and legal advisers.

"**Associate**" has the meaning given in the Takeovers Code and "**Associated**" shall have a corresponding meaning.

"**ASX**" means ASX Limited or the Australian Securities Exchange, as the context requires.

"**ASX Listing Rules**" means the official listing rules of the ASX.

"**AU PPSA**" means the *Personal Property Securities Act 2009* (Cth).

"**Bill Rate**" means, in respect of any rate of interest to be calculated pursuant to this agreement, the Reserve Bank of New Zealand 90 day B2 Wholesale interest rate stated on the following page (or any successor page) http://www.rbnz.govt.nz/statistics/b2 at or about 3.00pm on the first Business Day of the period in respect of which such rate of interest is to be calculated, and thereafter at intervals of 90 days from that Business Day.

"**Board**" means the board of directors of the Company.

"**Break Fee**" means $29,564,240.

"**Business**" means the business carried on by the Tilt Renewables Group as at the date of this agreement.

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

"**Change of Control Consent**" has the meaning given to that term in clause 10.1.

"**Companies Act**" means the Companies Act 1993.

"**Company Director**" means each director of the Company from time to time.

"**Company Indemnified Persons**" means each member of the Tilt Renewables Group and each of their respective directors, officers, employees and financial and legal advisers.

"**Company Information**" means all information included in the Scheme Booklet other than the Acquirer Information, the Mercury Information and the Independent Adviser's Report.

"**Company Undertakings**" means the undertakings set out in Part 2 of Schedule 2.

"**Company Warranties**" means the warranties set out in Part 1 of Schedule 2.

"**Competing Proposal**" means any proposed:

(a) takeover (whether a full or partial takeover under the Takeovers Code) in respect of the Company by a Third Party;

(b) scheme of arrangement in respect of a Tilt Renewables Group member involving a Third Party;

(c) transfer or issuance of financial products of the Company to a Third Party:

  (i) where the Shareholders' approval is required under the Takeovers Code; or

  (ii) in respect of financial products which are convertible into, or exchangeable for, Shares, where Shareholders' approval would be required under the Takeovers Code if those financial products were Shares;

(d) sale of assets or financial products of any member of the Tilt Renewables Group to a Third Party, where such sale constitutes a material part of the Tilt Renewables Group's Business (and, for clarity, will not include (i) any sale, disposal of assets or winding up in relation to any business, division, subsidiary or other interest of the Tilt Renewables Group having a value of less than A$10,000,000, or (ii) any accounting adjustment that results in a notional disposal of assets); or

(e) strategic alliance, joint venture, partnership, economic or synthetic merger or other transaction or arrangement which, if completed, would have the effect of a Third Party, directly or indirectly, having or being entitled to acquire a Relevant Interest in more than 20% of the Shares or more than 20% of the shares in any other member or members of the Tilt Renewables Group that individually or collectively contribute more than 20% of the consolidated EBITDAF of the Tilt Renewables Group or whose assets represent more than 20% of the total consolidated assets of the Tilt Renewables Group.

For the purposes of the definition of "Competing Proposal":

(f) any such proposal may be an expression of interest, indicative, conditional or otherwise non-binding;

(g) paragraphs (c), (d) and (e) above include any agreement (within the meaning of section 6 of the FMCA) whereby such a transaction is effected through a series of linked or related transactions which if conducted as a single transaction would constitute a "Competing Proposal" within the meaning of paragraphs (c), (d) or (e) above;

(h) "Third Party" shall mean a Third Party together with its Associates; and

(i) (for the avoidance of doubt) any upstream proposal concerning Infratil 2018 Limited will not, of itself, be considered to be a Competing Proposal.

"**Conditions**" mean the conditions precedent set out in the table in clause 3.1.

"**Conflicted Director**" means a Company Director that abstains from giving the recommendation and providing the undertaking referred to in clause 8.1 whether due to a conflict of interest or otherwise.

"**Consideration**" means $7.80 in respect of each Scheme Share held by a Scheme Shareholder, as adjusted in accordance with clause 6.4 in respect of a Permitted Dividend or by virtue of any Counter Proposal that is given effect to payable, except as provided for in the Scheme Plan in relation to Mercury only, in cash.

"**Construction Bonus Rights**" means the share based short term incentives that are contained in the remuneration packages of certain employees of the Tilt Renewables Group, whereby such employees are issued Shares if specified project related performance criteria are met.

"**Counter Proposal**" has the meaning set out in clause 13.8(b)(iii).

"**Court**" means the High Court of New Zealand, Auckland Registry.

"**D&O Run-off Policy**" has the meaning given to that term in clause 12.1(a).

"**Data Room**" means the "Project Peak" virtual data room hosted by Intralinks and established by or on behalf of the Company in relation to the Transaction.

"**Deed Poll**" means the deed poll to be entered into by the Acquirer in favour of the Scheme Shareholders, in the form set out in Schedule 7 or such other form agreed between the parties.

"**Disclosure Letter**" means a letter delivered by the Company to the Acquirer prior to the entry into this agreement, together with the attachments to that letter, and which (amongst other things) discloses facts, matters and circumstances that are, or may be, inconsistent with the Company Warranties.

"**Due Diligence Material**" means:

(a) the materials and information, including written answers given by or on behalf of the Company to questions and requests for information made by or on behalf of the Acquirer Group, contained in the Data Room prior to entry into this agreement, a complete copy of which materials and information will be provided by the Company to the Acquirer on a USB drive within two Business Days after the date of this agreement; and

(b) the Disclosure Letter.

"**EBITDAF**" means earnings before interest, tax, depreciation, amortisation and fair value adjustments.

"**Effective**" means, when used in relation to the Scheme, the coming into effect under section 236(3) of the Companies Act of the order of the Court made under section 236(1) of the Companies Act in relation to the Scheme.

"**Encumbrance**" means any security interest (within the meaning of section 17(1)(a) of the NZ PPSA or section 12(1) of the AU PPSA) and any option, right to acquire, right of pre-emption, assignment by way of security, trust arrangement for the purpose of providing security, retention arrangement or other security interest of any kind (other than any reservation of title by suppliers in the ordinary course of business), and any agreement to create any of the foregoing, but excludes (where created in the ordinary course of business):

(a) every lien or retention of title arrangement securing the unpaid balance of purchase money for property acquired in the ordinary course of business;

(b) any security interest in relation to personal property (as those terms are defined in the NZ PPSA and the AU PPSA and to which those Acts apply (as applicable)) that is created or provided for by:

(i) a transfer of an account receivable or chattel paper;

(ii) a lease for a term of more than one year; or

(iii) a commercial consignment,

that is not a security interest within the meaning of section 17(1)(a) of the NZ PPSA or section 12(1) of the AU PPSA;

(c) the interest of the lessor or owner in respect of assets subject to a lease, a hire-purchase agreement or a conditional sale agreement;

(d) any charge or lien created by or arising by operation of any law provided it does not secure overdraft debts; or

(e) any right of netting or set-off or combination of account.

"**End Date**" means the day 8 months after the date of this agreement (or, if the period to assess a FIRB application is extended by law, such later date as nominated by the Company provided such date is no later than 12 months after the date of this agreement), or such later date as contemplated by clause 7.4 or as the parties agree in writing.

"**Exclusivity Period**" means the period starting on the date of this agreement and ending on the first to occur of:

(a) termination of this agreement;

(b) the Implementation Date; and

(c) the End Date.

"**Expert**" means, upon the application by any party, an expert appointed by the President, or their nominee, of the Arbitrators' and Mediators' Institute of New Zealand Inc.

"**FATA**" means the *Foreign Acquisitions and Takeovers Act 1975* (Cth).

"**Final Orders**" means, on application of the Company, orders that the Scheme will be binding on the Company, the Acquirer, Mercury, Mercury Windfarms, Scheme Shareholders and/or such other persons or class of persons as the Court may specify, in accordance with section 236(1) (and section 237, if applicable) of the Companies Act.

"**Final Orders Date**" means the day on which the Final Orders are sealed by the Court.

"**FIRB**" means the Foreign Investment Review Board.

"**FIRB Application**" means the Acquirer's application under the FATA in connection with the Scheme.

"**FIRB Condition**" means the Condition set out in clause 3.1(f).

"**First Court Date**" means the first date on which the application is made to the Court for the Initial Orders in accordance with section 236(2) of the Companies Act.

"**FMCA**" means the Financial Markets Conduct Act 2013.

"**Fundamental Warranties**" means the Company Warranties set out in paragraphs 1 - 6 (inclusive) of Part 1 of Schedule 2.

"**Government Agency**" means any government, any department, officer or minister of any government and any governmental, semi-governmental, regulatory, administrative, fiscal, judicial or quasi-judicial agency, authority, board, commission, tribunal or entity, in any jurisdiction, and includes (for the avoidance of doubt) the Overseas Investment Office, the Takeovers Panel, the Financial Markets Authority and FIRB.

"**GST**" means goods and services tax charged or levied under the GST Act, and includes any GST Default Amounts.

"**GST Act**" means the Goods and Services Tax Act 1985.

"**GST Default Amounts**" means any penalties, additional tax or interest payable in respect of goods and services tax.

"**Implementation Date**" means the day on which the Scheme is to be implemented, being 2 Business Days after the Record Date, or such other date agreed between the parties in writing and "**Implementation**" means the time at which the Scheme is implemented.

"**Independent Adviser**" means the person appointed by the Company, and approved by the Takeovers Panel, as independent adviser to prepare the Independent Adviser's Report.

"**Independent Adviser's Report**" means the independent adviser's report prepared by the Independent Adviser in relation to the Scheme, as amended or updated from time to time and including any supplementary or replacement report.

"**Independent Director**" means a Company Director who the Company has advised NZX is an "independent director" for the purposes of the NZX Listing Rules.

"**Initial Orders**" means, on application by the Company, orders by the Court for the purposes of section 236(2) of the Companies Act.

"**Insolvency Event**" means, in relation to a person, the occurrence of any of the following:

(a) the person ceases or threatens to cease to carry on all or substantially all of its business or operations;

(b) the person is unable to pay its debts when due (as defined in section 287 of the Companies Act), or enters into dealings with any of its creditors with a view to avoiding or in expectation of insolvency, or makes a general assignment or an arrangement or composition or compromise with or for the benefit of any of its creditors, or stops or threatens to stop payments generally;

(c) the person goes into receivership or has a receiver, receiver and manager, statutory manager, voluntary administrator, trustee or other similar officer appointed in respect of all or any of its property;

(d) a distress order, attachment order, freezing order or other execution is levied or enforced upon or commenced against any of its assets;

(e) any resolution is proposed or passed, or any proceeding is commenced or order made, for the liquidation or dissolution of that person;

(f) any application is made or notice is filed for the deregistration of that person;

(g) any other form of secured creditor enforcement, including as mortgagee in respect of real property;

(h) that person takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts referred to in this definition; or

(i) anything analogous to anything referred to in the above paragraphs, or which has substantially similar effect, occurs with respect to it, including under any foreign law.

"**Loss**" includes loss, liability, cost, expense, charge, obligation, overhead, debt or damage (in each case whether known or unknown, actual, contingent or prospective) of any kind and however arising, including penalties, fines and interest.

"**Mercury Deed Poll**" has the meaning set out in clause 5.5.

"**Matching Period**" has the meaning set out in clause 13.8(b).

"**Mercury Group**" means Mercury and each of its Related Companies but excluding members of the Tilt Renewables Group.

"**Mercury Information**" means all information given by Mercury to the Company for inclusion in the Scheme Booklet in connection with the disclosure of the NZ Separation being:

(a) information about the Mercury Group and its businesses and interests;

(b) any other information that Mercury and the Company agree (acting reasonably) is Mercury Information and is identified in the Scheme Booklet as such.

"**Mercury Undertakings**" means the undertakings set out in Part 4 of Schedule 3.

"**Mercury Warranties**" means the warranties set out in Part 3 of Schedule 3.

"**Mercury Windfarms**" means Mercury SPV 2021 Limited (company number 8168991).

"**NZ Separation**" means the transfer of the NZ Transferring Assets from the Company to Mercury Windfarms on the terms set out in the Scheme Plan.

"**NZ Transferring Assets**" has the meaning set out in the Scheme Plan.

"**NZ Transferring Contracts**" means those contracts specified in the Disclosure Letter.

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

"**NZ PPSA**" means the Personal Property Securities Act 1999.

"**NZ Subsidiaries**" means Tilt Renewables Insurance Limited (company number 8127307), Tararua Wind Power Limited (company number 475852), Waverley Wind Farm (NZ) Holding Limited (company number 7580296) and Waverley Wind Farm Limited (company number 6920094).

"**NZX**" means NZX Limited and, where the context requires, the main board financial market that it operates.

"**NZX Listing Rules**" means the NZX Main Board Listing Rules.

"**OIO Application**" means the Acquirer's application under the Overseas Investment Act 2005 and the Overseas Investment Regulations 2005 in connection with the Scheme.

"**OIO Condition**" means the Condition set out in clause 3.1(a).

"**Performance Rights**" means Performance Rights (as that term is defined in the Performance Rights Plan) issued pursuant to the Performance Rights Plan.

"**Performance Rights Plan**" means the Tilt Renewables Group Performance Rights Plan.

"**Permitted Dividend**" has the meaning given to that term in clause 6.4(a).

"**Prescribed Occurrence**" means the occurrence of any of the events listed in Schedule 1 other than an event:

(a) agreed to by the Acquirer in writing; or

(b) expressly required or permitted by this agreement.

"**Record Date**" means 7:00pm on the date which is five Business Days after the later of:

(a) the Final Orders Date;

(b) the date on which the OIO Condition is satisfied; and

(c) the date on which the FIRB Condition is satisfied,

or such other date agreed between the parties in writing.

"**Register**" means the Share register maintained by Computershare Investor Services Limited on behalf of the Company.

"**Registrar**" has the meaning given in the Companies Act.

"**Related Company**" has the meaning given to that expression in section 2(3) of the Companies Act, read as if the reference to "company" in that section included any body corporate or entity, wherever incorporated.

"**Relevant Date**" means, in relation to a Condition, the date or time specified in this agreement for its fulfilment or, if no date or time is specified, 8.00 am on the Second Court Date, subject, in either case, to extension to that date made under clause 3.7.

"**Relevant Interest**" has the meaning given to that term in section 235(1) of the FMCA.

"**Relief**" means any loss, allowance, credit, deduction, rebate or other relief taken into account in computing any Tax liability or any right to the repayment or refund of Tax.

"**Representatives**" in relation to a person means:

(a) any director, officer, employee or agent of, and any accountant, auditor, financier, financial adviser, legal adviser, technical adviser or other expert adviser or consultant to, that person; and

(b) when used in clauses 2.3, 13.1, 13.2, 13.4, 13.6 and 13.8 only, also includes any member of the Tilt Renewables Group and any director, officer, employee or agent of that member of the Tilt Renewables Group.

"**Restricted Shares**" means Restricted Shares (as that term is defined in the Restricted Share Scheme) issued or transferred pursuant to the Restricted Share Scheme.

"**Restricted Share Scheme**" means the Tilt Renewables Group Development Business Incentive Restricted Share Scheme.

"**Reverse Break Fee**" means the same amount as the Break Fee.

"**Scheme**" means a scheme of arrangement under Part 15 of the Companies Act under which all of the Scheme Shares held by Scheme Shareholders will be transferred to the Acquirer and the Scheme Shareholders will receive the Consideration, in the form of the Scheme Plan.

"**Scheme Booklet**" means the explanatory memorandum (including the notice of meeting and proxy form) to be prepared in accordance with this agreement in connection with the Scheme, the despatch of which is to be approved by the Court and which is to be sent to Shareholders in advance of the Scheme Meeting.

"**Scheme Meeting**" means the meeting of Shareholders ordered by the Court to be convened pursuant to the Initial Orders in respect of the Scheme and includes any adjournment of that meeting.

"**Scheme Plan**" means the Scheme plan set out in Schedule 5 or in such other form as the parties agree in writing and the Court approves under section 236(1) of the Companies Act.

"**Scheme Resolution**" means the resolution to be put to Shareholders at the Scheme Meeting to approve the Scheme.

"**Scheme Shareholder**" means a person who is registered in the Register on the Record Date as the holder of one or more Scheme Shares.

"**Scheme Shares**" means all of the Shares on issue on the Record Date.

"**Schemes Guidance Note**" means the guidance note issued by the Takeovers Panel in relation to schemes of arrangement and amalgamations under Part 15 of the Companies Act dated 18 September 2020 (as amended, updated or reissued from time to time).

"**Second Court Date**" means the later of:

(a) if no hearing is held in respect of the Final Orders, the last date the Company files affidavit(s) satisfying the Initial Orders so as to obtain the Final Orders; and

(b) if there is a hearing in respect of the Final Orders, the first date of such hearing, provided that if such hearing is adjourned, it means the first date on which the adjourned application is heard.

"**Share**" means a fully paid ordinary share in the Company.

"**Shareholder**" means a person who is registered in the Register as the holder of one or more of the Shares from time to time.

"**Subsidiary**" has the meaning given to that term in section 5 of the Companies Act, read as if the reference to "company" in that section included any body corporate or entity, wherever incorporated.

"**Superior Proposal**" means a written bona fide Competing Proposal received in writing after the date of this agreement that the Board determines, acting in good faith and after having taken advice from its external financial and legal advisers:

(a) is reasonably capable of being implemented, taking into account all aspects of the Competing Proposal, including its conditions precedent and the likelihood of satisfying those conditions; and

(b) would, if completed substantially in accordance with its terms, result in a transaction that is more favourable to Shareholders (as a whole) than the Scheme, taking into account all the terms and conditions of the Competing Proposal and the Scheme together with any other matters the Board considers relevant.

"**Takeovers Code**" means the takeovers code approved in the Takeovers Regulations 2000 (SR 2000/210) as amended 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.

"**Tax**" or "**Taxation**" means all forms of taxation including all statutory or governmental taxes, levies, duties, rates, stamp and transaction duty, or any goods and services tax, value added

tax or consumption tax, whether imposed in New Zealand, Australia or elsewhere, and includes:

(a) any reassessments of any such taxation;

(b) loss of Relief; and

(c) all penalties, interest, fines or the like imposed in respect of any such taxation or loss of Relief.

"**Third Party**" means a person other than:

(a) a member of the Acquirer Group; or

(b) an Associate of a member of the Acquirer Group in respect of this Transaction.

"**Tilt Renewables Group**" means the Company and its Subsidiaries.

"**Timetable**" means the timetable set out in Schedule 4, or such other timetable as the parties may agree in writing.

"**Transaction**" means the NZ Separation, and the acquisition by the Acquirer of all the Scheme Shares, through the implementation of the Scheme in accordance with the terms of this agreement.

"**Trigger Dispute**" means any dispute between the parties as to whether an event in clause 15 has arisen.

1.2 **References**: In this agreement, unless the context otherwise requires:

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

(b) the singular includes the plural and vice versa;

(c) 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);

(d) 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;

(e) reference to a party, person or entity includes:

(i) an individual, partnership, firm, company, body corporate, corporation, association, trust, estate, state, government or any agency thereof, municipal or local authority and any other entity, whether incorporated or not (in each case whether or not having a separate legal personality); and

(ii) an employee, sub-contractor, agent, successor, assign, executor, administrator and other representative of such party, person or entity;

(f) "written" and "in writing" include any means of reproducing words, figures or symbols in a tangible and visible form;

(g) the words "including" or "includes" do not imply any limitation and general words must not be given a restrictive meaning just because they are followed by particular examples intended to be embraced by the general words;

(h) a reference to any time is a reference to that time in New Zealand;

(i) a reference to "law" includes any statute, regulation, by-law, determination, ordinance, rule (including applicable listing rules) or other like provision, as amended from time to time, in any jurisdiction;

(j) references to the ASX Listing Rules or the NZX Listing Rules is taken to be subject to any waiver or exemption granted to the compliance of those rules by a party;

(k) references to a clause, schedule or annexure is a reference to a clause, schedule or annexure of or to this agreement (and the schedules and annexures form part of this agreement);

(l) if a word or phrase is defined, other grammatical forms of that word have a corresponding meaning;

(m) references to money are to New Zealand dollars provided, however, that a reference to A$ is a reference to Australian dollars; and

(n) a reference to a matter, information or a circumstance being "disclosed" or "fairly disclosed" (or any similar expression) means disclosure in writing in a manner such that the matter, information or circumstance might reasonably be expected to come to the knowledge of a diligent and reasonable purchaser or any of its Representatives in the ordinary course of carrying out a due diligence exercise in respect of the Tilt Renewables Group and the Business, in such a way that such a purchaser (experienced in transactions of this nature) might reasonably be expected to understand the relevance and importance of the matter, information or circumstance.

1.3 **Consents**: If the doing of any act, matter or thing under this agreement is dependent on the consent or approval of a party or is within the discretion of a party, then, unless specified otherwise in this agreement, such consent or approval may be given or such discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion.

1.4 **No contra proferentem**: No term or condition of this agreement will be construed adversely to a party solely because that party was responsible for the preparation of this agreement or a provision of it.

1.5 **Knowledge**:

(a) Where any Company Warranty is qualified by the expression "so far as the Company is aware" or any similar expression, the Company will be deemed to know or be aware of all matters or circumstances of which Deion Campbell, Steve Symons, Clayton Delmarter and Nigel Baker are actually aware of as at the date the statement is made.

(b) For clarity, and without limiting clause 11.7, none of the individuals referred to in this clause 1.5 has any personal liability in respect of the Company Warranties.

(c) Other than as contemplated by clause 1.5(a), the knowledge, belief or awareness of any person will not be imputed to the Company.

1.6 **Things required to be done other than on a Business Day**: Unless otherwise indicated, if the day on which any act, matter or thing is to be done is a day other than a Business Day, that act, matter or thing must be done on or by the next Business Day.

1.7 **Independent Adviser's conclusion**: For the avoidance of doubt, for the purposes of this agreement, the Independent Adviser's Report will not be treated as having concluded that the Consideration is within or above the Independent Adviser's valuation range for the Shares if, after the finalisation of the initial Independent Adviser's Report, the Independent Adviser issues a replacement or supplementary report containing a revised valuation range for the Shares and the Consideration is below the revised valuation range (and, for clarity, such replacement or supplementary report, or any subsequent replacement or supplementary report, is not superseded by a further replacement or supplementary report containing a revised valuation range for the Shares and the Consideration is within or above the revised valuation range for the Shares).

2. SCHEME

2.1 **Proposal**: The Company must, as soon as reasonably practicable, propose and implement the Scheme on and subject to the terms of this agreement.

2.2 **Consideration**: In consideration for, and simultaneously with, the transfer to the Acquirer of each Scheme Share held by each Scheme Shareholder under the terms of the Scheme, the Acquirer undertakes in favour of the Company (in the Company's own right and on behalf of each of the Scheme Shareholders) to pay the Consideration to each Scheme Shareholder in accordance with the Scheme and the Deed Poll.

2.3 **General obligations**: Each party must do everything reasonably necessary, including by procuring that its Representatives work in good faith in a timely and co-operative manner with the other parties and their respective Representatives, to implement the Scheme in accordance with this agreement and all applicable laws.

2.4 **Timetable**:

(a) Each party must use reasonable endeavours to take all necessary steps and exercise all rights necessary to ensure that the Scheme is proposed and implemented in accordance with the Timetable or otherwise as soon as reasonably practicable. Failure by a party to meet any timeframe or deadline set out in the Timetable will not constitute a breach of this clause 2.4 to the extent that such failure is due to circumstances and matters outside the party's control and such party otherwise has used reasonable endeavours to meet the Timetable.

(b) Each party will keep the others informed about their progress against the Timetable. If any aspect of the Timetable is not expected to be achieved, the parties must consult in good faith on a timely basis with a view to amending the Timetable as required to permit the Scheme to be implemented before the End Date.

For clarity, neither this clause nor the Timetable limit the Company's ability to deal with a Competing Proposal that the Board considers is, or is reasonably capable of becoming, a

Superior Proposal in accordance with, and to the extent permitted by, clause 13 or to otherwise act in a manner the Board reasonably considers is required to meet the Board's fiduciary duties.

2.5 **No amendment**: The Company must not consent to any modification of, or amendment to, the Scheme or Final Orders, or the making or imposition by the Court or any Government Agency of any condition to the Scheme, without:

(a) the Acquirer's counsel's consent, where a modification or amendment is made, imposed or requested at a Court hearing where the Acquirer's counsel is present (and the Acquirer must procure that its counsel acts reasonably); or

(b) the Acquirer's prior written consent (acting reasonably) in the case of any other modification or amendment.

2.6 **Mercury involvement**:

(a) For the avoidance of doubt, Mercury is not the Acquirer and, except as expressly set out in this agreement and/or the Scheme Plan, has no obligations to the Company or Shareholders in respect of the Transaction. A reference in this agreement to a “party” or “parties” excludes Mercury, except in clauses 1.2, 2.3, 2.4, 3.4(b), 4.4, 7.4, 10, 11.4, 11.5, 11.6, 14.4, 14.5(b), 14.9, 14.10, 15.1, 15.7, 15.8, 15.10, 16.2, 17, 18, 19 and 20.

(b) The Acquirer must not grant any consent, approval or waiver under, or amend, this agreement or the Scheme Plan without Mercury’s prior written consent. Where, under this agreement or the Scheme Plan, the Acquirer is required to act reasonably (including by not unreasonably withholding, conditioning or delaying such consent or approval) and/or in good faith in respect of any such consent, approval, waiver, termination or amendment then Mercury must act reasonably and/or in good faith (as applicable) in respect of any consent sought by the Acquirer under this clause 2.6(b). Any consent, approval, waiver, amendment or termination exercised by the Acquirer in breach of this clause will not invalidate such consent, approval, waiver, amendment or termination.

(c) If the Company provides any draft or final document, correspondence, or other information to the Acquirer under this agreement which is not copied to Mercury, the Acquirer will promptly provide that document, correspondence or information to Mercury.

(d) If the Company provides any draft or final document, correspondence, or other information to the Acquirer under this agreement for the Acquirer to review and comment on that document or information, the Acquirer will, where Mercury has a legitimate commercial interest in that document or information, consult in good faith with Mercury when reviewing and commenting on that document or information.

(e) Mercury will procure that Mercury Windfarms complies with the Scheme Plan.

(f) If the Acquirer breaches its obligations in this clause such breach will not invalidate any action the Acquirer has taken viz-a-viz the Company and Mercury's sole and exclusive remedy in relation to any such breach is to sue the Acquirer for damages.

3. CONDITIONS

3.1 The Scheme will not become Effective, and the obligations of the Acquirer under clause 2.2 and, once signed, the Deed Poll, do not become binding, unless and until each of the Conditions set out in the following table are satisfied or (if capable of waiver) waived in accordance with this clause 3.

	CONDITION	RESPONSIBILITY	WAIVER
(a)	(**OIO consent**) before 8:00am on the End Date, all consents required to be given under the Overseas Investment Act 2005 and the Overseas Investment Regulations 2005 in connection with the Scheme being given on terms acceptable to the Acquirer, acting reasonably (subject to clause 3.3);	The Acquirer	None
(b)	(**Court approval**) subject to clause 3.2, before 8:00am on the End Date, approval of both the Initial Orders and Final Orders being given by the Court in accordance with Part 15 of the Companies Act on terms acceptable to the Company, the Acquirer and Mercury, each acting reasonably;	Company	None
(c)	(**Shareholder approval**) approval of the Scheme being given by the Shareholders at the Scheme Meeting by the requisite majorities in accordance with sections 236A(2)(a) and 236A(4) of the Companies Act;	Company	None
(d)	(**No restraint**) no law, judgment, order, restraint or prohibition enforced or issued by any Government Agency being in effect as at 8:00am on the Implementation Date that prohibits, prevents or makes illegal the implementation of the Scheme (including, for the avoidance of doubt, the NZ Separation);	None	None
(e)	(**No Prescribed Occurrence**) no Prescribed Occurrence occurring between the date of this agreement and 8:00am on the Implementation Date;	Company	The Acquirer
(f)	(**FIRB approval**) before 8:00am on the End Date, one of the following occurs: (a) the Acquirer has received written notification by or on behalf of the Treasurer of the Commonwealth of Australia under the FATA to the effect	The Acquirer	None

	CONDITION	RESPONSIBILITY	WAIVER
	that the Commonwealth Government has no objection to the Acquirer acquiring all the Scheme Shares under the Scheme on terms acceptable to the Acquirer, acting reasonably (subject to clause 3.3); or (b) the period provided for under the FATA during which the Treasurer may make an order or interim order under the FATA prohibiting the Acquirer acquiring Scheme Shares under the Scheme has elapsed without such an order being made.		
(g)	(**Independent Adviser's Report**) the Independent Adviser's Report concludes prior to the Scheme Meeting that the Consideration is above or within the Independent Adviser's valuation range for the Shares.	None	The Company

3.2 **Court Approval**: If the Court's approval of the Scheme in accordance with section 236(1) of the Companies Act would impose any terms or conditions other than those set out in the Scheme Plan, then each such term or condition must be approved in writing by the Acquirer, Mercury and the Company (both acting reasonably) prior to the Court granting the Final Orders.

3.3 **OIO Condition and FIRB Condition**:

(a) The Acquirer may not withhold its approval to the terms or conditions of any consent granted under the Overseas Investment Act 2005 and the Overseas Investment Regulations 2005 for the purposes of clause 3.1(a) if the terms or conditions imposed (a) are the standard terms or conditions set out in Schedule 6 or are of similar effect, (b) require the Acquirer to carry out or comply with the representations or plans made or submitted in the OIO Application (or report on them), or (c) are customary or otherwise reasonable.

(b) The Acquirer may not withhold its approval to the terms or conditions of any consent granted under FATA for the purposes of clause 3.1(f) if the terms and conditions imposed are (a) the standard tax conditions in the form, or substantially in the form, of those set out in section D of FIRB Guidance Note 12 as at 18 December 2020 or (b) customary or are otherwise reasonable.

3.4 **Endeavours to satisfy Conditions**:

(a) The party specified in the "Responsibility" column of the table in clause 3.1 opposite each Condition is primarily responsible for the satisfaction of that Condition and (where applicable) must promptly apply for or seek each consent or

approval required to satisfy that Condition, and diligently pursue it. Such party must use reasonable endeavours to satisfy that Condition:

(i) in the case of any Condition in clauses 3.1(a), (b), (c) and (f), as soon as practicable and in any event before the End Date; and

(ii) in the case of the Condition in clause 3.1(e) at all times before 8:00am on the Implementation Date.

(b) Regardless of whether a party is primarily responsible for the satisfaction of a particular Condition in accordance with clause 3.4(a), each party must:

(i) co-operate with the other parties towards satisfying each Condition;

(ii) promptly provide all information and other assistance reasonably required by any other party for the purposes of procuring the satisfaction of each Condition; and

(iii) not take any action or omit to take any action to deliberately hinder, subvert or undermine the satisfaction of any Condition, except to the extent that such action is required by law, and provided that, this provision does not limit the Company's ability to deal with a Competing Proposal that the Board considers is, or is reasonably capable of becoming, a Superior Proposal in accordance with, and to the extent permitted by, clause 13 or to deal with any other circumstances in accordance with the terms of this agreement and the Board's fiduciary duties.

(c) Nothing in this clause 3.4 will limit each party's discretion to determine whether or not a Condition has been satisfied.

3.5 **Notifications**:

(a) Each party will keep the other party fully informed as to the progress made towards procuring the satisfaction of the Conditions.

(b) If it becomes known that a Condition has become incapable of satisfaction, the party with that knowledge will promptly inform the other party in writing, and in any event within two Business Days of the relevant fact having become known to that party.

(c) Each party must notify the other party in writing of the satisfaction of a Condition as soon as reasonably practicable after that party becomes aware of it. Any notification delivered pursuant to this clause 3.5(c) must be accompanied by sufficient evidence to reasonably satisfy the other party of the fulfilment of the Condition, including a copy of any consent, approval, order or other documentation.

3.6 **Waiver**: Where the column of the table in clause 3.1 opposite a Condition headed "waiver" states "none", that Condition has been inserted for the benefit of both parties and cannot be waived by either of the parties. The Condition in clause 3.1(e) has been inserted for the benefit of, and may only be waived by, the Acquirer by notice in writing to the

Company. The Condition in clause 3.1(g) has been inserted for the benefit of, and may only be waived by, the Company by notice in writing to the Acquirer.

3.7 **If a Condition is not fulfilled or waived**: If:

(a) a Condition set out in clause 3.1(a) to 3.1(c) inclusive and clause 3.1(f) to 3.1(g) inclusive has not been fulfilled by the Relevant Date and is not waived (where capable of waiver);

(b) a Condition set out in clause 3.1(d) or 3.1(e) has not been fulfilled by the End Date;

(c) the Implementation Date does not occur on or prior to the End Date; or

(d) there is an act, failure to act, event or occurrence which will prevent a Condition being fulfilled by:

(i) in the case of a Condition in clause 3.1(a) to 3.1(c) inclusive or clause 3.1(f) to 3.1(g) inclusive, the Relevant Date; or

(ii) in the case of a Condition in clause 3.1(d) or 3.1(e), the End Date,

(and the breach or non-fulfilment of the Condition which would otherwise occur has not been waived),

the parties:

(e) must consult in good faith for at least five Business Days to determine whether the Scheme may proceed by way of alternative means or method so as to achieve a commercial outcome which reflects the Scheme; and

(f) may agree to extend the Relevant Date or the End Date, or both.

3.8 **Specific obligations relating to OIO Condition**: Without prejudice to each party's obligations under clause 3.4, the Acquirer must:

(a) if not submitted prior to the date of this agreement, submit the OIO Application no later than the date that is two Business Days after the date of this agreement in the form provided to and commented on by the Company prior to the date of this agreement;

(b) promptly provide to the Overseas Investment Office all notices, information and documents requested by the Overseas Investment Office in connection with the OIO Condition;

(c) diligently progress the OIO Application (including by responding to the Overseas Investment Office in a fulsome and timely manner and, where applicable, in compliance with prescribed timeframes, in respect of all its questions and other correspondences);

(d) notify the Company of any material communication, whether written or oral, received by the Acquirer from the Overseas Investment Office in relation to the OIO Condition;

(e) consult with the Company with respect to any material filing, material notice or material information to be provided to, or material correspondence to be had with, the Overseas Investment Office (provided that any commercially or competitively sensitive information in any application or other filing, notice, information or correspondence will only be provided to the Company's solicitors, on a counsel-only basis);

(f) not resile from or change, 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 Acquirer to the Overseas Investment Office in or in connection with the OIO Application;

(g) other than on termination of this agreement, not withdraw or vary (with a consequence that might be adverse to its prospects of satisfying the OIO Condition), or procure such withdrawal or variation of, the OIO Application; and

(h) ensure that a representative of the Company is provided with an opportunity to be present at any meetings with the Overseas Investment Office (except to the extent that the Overseas Investment Office expressly requests that a party should not be present at the meeting or part or parts of the meeting).

3.9 **Specific obligations relating to FIRB Condition**: Without prejudice to each party's obligations under clause 3.4, the Acquirer must:

(a) if not submitted prior to the date of this agreement, submit the FIRB Application no later than the date that is two Business Days after the date of this agreement in the form provided to and commented on by the Company prior to the date of this agreement;

(b) promptly provide to FIRB all notices, information and documents requested by FIRB in connection with the FIRB Condition;

(c) diligently progress the FIRB Application (including by responding to FIRB in a fulsome and timely manner and, where applicable, in compliance with prescribed timeframes, in respect of all its questions and other correspondences);

(d) notify the Company of any material communication, whether written or oral, received by the Acquirer from FIRB in relation to the FIRB Condition;

(e) consult with the Company with respect to any material filing, material notice or material information to be provided to, or material correspondence to be had with, FIRB (provided that any commercially or competitively sensitive information in any application or other filing, notice, information or correspondence will only be provided to the Company's solicitors, on a counsel-only basis);

(f) not resile from or change, with a consequence that might be adverse to its prospects of satisfying the FIRB Condition, any of the assurances or other commitments provided by the Acquirer to FIRB in or in connection with the FIRB Application;

(g) other than on termination of this agreement, not withdraw or vary (with a consequence that might be adverse to its prospects of satisfying the FIRB Condition), or procure such withdrawal or variation of, the FIRB Application; and

(h) ensure that a representative of the Company is provided with an opportunity to be present at any meetings with FIRB (except to the extent that FIRB expressly requests that a party should not be present at the meeting or part or parts of the meeting).

3.10 **Termination**: If any of the Conditions:

(a) becomes incapable of being satisfied; or

(b) is not fulfilled or waived (to the extent capable of waiver) before 5.00pm on the End Date,

then, provided that the party has first complied with clause 3.7, either party may terminate this agreement on written notice to the other party, at which time, subject to clause 14.9, this agreement will terminate and be of no effect. For the avoidance of doubt, this agreement cannot be terminated after the Scheme Meeting in respect of the Condition in clause 3.1(g).

4. SCHEME BOOKLET

4.1 **Company's obligations**: The Company will:

(a) prepare the Scheme Booklet so that it contains:

(i) all information required by the Companies Act, the NZX Listing Rules and ASX Listing Rules and any other applicable laws;

(ii) any information required by the Takeovers Panel in order for the Company to obtain from the Takeovers Panel a letter of intention and a statement under section 236A(2)(b)(ii) of the Companies Act;

(iii) the responsibility statements referred to in clause 4.5; and

(iv) a statement by the Non-Conflicted Directors reflecting the recommendation and undertaking referred to in clause 8 (unless the Consideration is not within or above the Independent Adviser's valuation range for the Shares);

(b) if not already appointed, appoint the Independent Adviser (including obtaining approval from the Takeovers Panel), and provide all assistance and information that is reasonably requested by the Independent Adviser to enable it to prepare the Independent Adviser's Report;

(c) provide the Acquirer with a draft of the Scheme Booklet in a timely manner and so that the Acquirer has a reasonable opportunity to review that draft, and consider in good faith all of the reasonable comments of the Acquirer and its Representatives when preparing a revised draft of the Scheme Booklet;

(d) as soon as practicable after preparation of an advanced draft of the Scheme Booklet suitable for review by the Takeovers Panel, provide that draft to the Acquirer;

(e) as soon as practicable after receipt of the consent from the Acquirer referred to in clause 4.2(e) and the consent from Mercury referred to in clause 4.3, provide the Takeovers Panel the draft Scheme Booklet;

(f) consult with the Acquirer in good faith in relation to any matters raised by the Takeovers Panel in relation to the Scheme Booklet and use reasonable endeavours, in co-operation with the Acquirer, to resolve any such matters;

(g) as soon as practicable after the Takeovers Panel has completed its review of the Scheme Booklet and the Takeovers Panel has indicated in writing that it intends to issue a "no objection" statement before the Second Court Date, procure that a meeting of the Board is convened to approve the Scheme Booklet for lodgement with the Court and, subject to the Initial Orders being granted and the terms of those orders, for dispatch to Shareholders;

(h) send the Scheme Booklet to Shareholders in accordance with the requirements set out in the Initial Orders (and otherwise as soon as reasonably practicable, including within the Timetable); and

(i) advise the Acquirer if the Company becomes aware:

(i) of new information which, had it been known at the time the Scheme Booklet was prepared, should have been included in the Scheme Booklet;

(ii) that any part of the Scheme Booklet (other than the Independent Adviser's Report or the Acquirer Information or the Mercury Information) is misleading or deceptive in any material respect, including by omission; or

(iii) that information that was required to be disclosed in the Scheme Booklet under applicable law was not included,

and, in any of those cases, if the Company becomes so aware at any time:

(iv) between the approval of the Scheme Booklet in accordance with clause 4.1(g) and the date of the Scheme Meeting, then, if considered by the Company that supplementary disclosure is required, it will (after consulting with the Acquirer in good faith as to the need for, and content and presentation of, that supplementary disclosure) provide supplementary disclosure to Shareholders in an appropriate and timely manner in accordance with applicable law and will, if it considers it necessary or appropriate (A) seek the Court's guidance in respect of the supplementary disclosure; and (B) adjourn the Scheme Meeting to the earliest date possible; or

(v) between the date of the Scheme Meeting and the Second Court Date, then, if considered by the Company that supplementary disclosure is required, it will (after consulting in good faith with the Acquirer as to the need for, and content and presentation of, that supplementary disclosure) apply to the Court for orders as to the procedure to be followed as to the provision of supplementary disclosure to Shareholders and the effect on the approval of the Scheme.

4.2 **Acquirer obligations**: The Acquirer must:

(a) prepare and provide to the Company for inclusion in the Scheme Booklet information:

(i) about the Acquirer and the Acquirer Group;

(ii) about the various funding arrangements the Acquirer has available to it in order to fund the Consideration (provided that the Acquirer is not required to disclose any commercially sensitive terms or information which may be materially adverse to the Acquirer's competitive position if disclosed); and

(iii) equivalent to the information that would meet the requirements of Schedule 1 to the Takeovers Code,

as required to be included in the Scheme Booklet by the Companies Act, the Takeovers Panel, the NZX Listing Rules and any other applicable laws;

(b) give the Company a reasonable opportunity to review successive drafts of the information referred to in clause 4.2(a) in a timely manner and so that the Company has a reasonable opportunity to review the form and content of that information, and in respect of each draft provided, consider and take into account in good faith all reasonable comments of the Company and its Representatives when preparing revised drafts of that information (with the parties' intention being that, so far as is practicable, the Scheme Booklet be prepared within 12 Business Days of the date on which the initial draft of the Scheme Booklet is provided by the Company to the Acquirer);

(c) provide all assistance and information reasonably requested by the Independent Adviser relating to the Acquirer to enable it to prepare the Independent Adviser's Report;

(d) as soon as reasonably practicable after receipt of any draft of the Scheme Booklet from the Company, review and provide comments on that draft;

(e) subject to clause 4.4, before the Company provides the Scheme Booklet to the Takeovers Panel in accordance with clause 4.1(e), deliver to the Company consent from the Acquirer to the inclusion of the Acquirer Information in the Scheme Booklet in the form and context it appears;

(f) before a draft of the Scheme Booklet is lodged with the Takeovers Panel, and again before the Scheme Booklet is despatched to Shareholders, confirm to the Company the accuracy and completeness of the Acquirer Information in the Scheme Booklet, including that it does not contain any statement that is false or misleading including because of omission;

(g) advise the Company if the Acquirer becomes aware at any time after giving consent to the Company under clause 4.2(e) either:

(i) of new information which is material and which, had it been known at the time the Scheme Booklet was prepared, should have been included in the Acquirer Information;

(ii) that any part of the Acquirer Information is misleading or deceptive in a material respect, including by omission; or

(iii) that information that was required to be disclosed as part of the Acquirer Information under applicable law was not included,

and if the Acquirer provides such advice, the Company will, at any time:

(iv) between the approval of the Scheme Booklet in accordance with clause 4.1(g) and the date of the Scheme Meeting, if considered by the Company that supplementary disclosure is required, provide (after consulting with the Acquirer in good faith as to the need for, and content and presentation of, that supplementary disclosure) supplementary disclosure to Shareholders in an appropriate and timely manner in accordance with applicable law and will, if it considers it necessary or appropriate (A) seek the Court's guidance in respect of the supplementary disclosure; and (B) adjourn the Scheme Meeting to the earliest date possible; and

(v) between the date of the Scheme Meeting and the Second Court Date, if considered by the Company that supplementary disclosure is required (after consulting with the Acquirer in good faith as to the need for, and content and presentation of, that supplementary disclosure), apply to the Court for orders as to the procedure to be followed as to the provision of supplementary disclosure to Shareholders and the effect on the approval of the Scheme; and

(h) not act in a manner inconsistent with obtaining Court approval for the Scheme, provided that this sub-clause (h) does not limit the exercise by the Acquirer of its rights under this agreement.

4.3 **Mercury Information**: Mercury must:

(a) prepare and provide to the Company for inclusion in the Scheme Booklet the Mercury Information;

(b) comply with clause 4.2(b), 4.2(c), 4.2(e), 4.2(f), 4.2(g) and 4.2(h) (as if references in those clauses to the “Acquirer” were references to Mercury and references to “Acquirer Information” were references to Mercury Information and with all other necessary modifications).

4.4 **Acquirer / Mercury confirmation and approval**: If the Acquirer or Mercury requires any change to be made to the form or content of the Acquirer Information or the Mercury Information (as applicable) as a condition of giving its consent as referred to in clause 4.2(e) or 4.3(b) then:

(a) if the Company (acting reasonably) disagrees with the change, the parties must consult in good faith about the change and the reasons for it with a view to agreeing an alternative change that satisfies both parties; and

(b) if the parties are unable to reach agreement, the Company must make such changes to the Acquirer Information or the Mercury Information as the Acquirer or Mercury (as applicable) reasonably requires.

4.5 **Responsibility statements**: The Scheme Booklet must contain responsibility statements, in a form to be agreed between the parties, to the effect that:

(a) the Company has provided, and is responsible for, the Company Information in the Scheme Booklet, and that none of:

(i) the Acquirer, its Related Companies or their respective Representatives assumes any responsibility for the accuracy or completeness of the Company Information; and

(ii) Mercury, its Related Companies or their respective Representatives assumes any responsibility for the accuracy or completeness of the Company Information; and

(b) the Acquirer has provided, and is responsible for, the Acquirer Information but no other part of the Scheme Booklet, and that none of:

(i) the Company, its Related Companies or their respective Representatives assumes any responsibility for the accuracy or completeness of the Acquirer Information; and

(ii) Mercury, its Related Companies or their respective Representatives assumes any responsibility for the accuracy or completeness of the Acquirer Information; and

(c) Mercury has provided, and is responsible for, the Mercury Information but no other part of the Scheme Booklet, and that none of:

(i) the Company, its Related Companies or their respective Representatives assumes any responsibility for the accuracy or completeness of the Mercury Information; and

(ii) the Acquirer, its Related Companies or their respective Representatives assumes any responsibility for the accuracy or completeness of the Mercury Information; and

(d) the Independent Adviser has provided and is responsible for the Independent Adviser's Report, and that none of the Acquirer, the Company, or Mercury or their respective Related Companies or Representatives assumes any responsibility for the accuracy or completeness of the Independent Adviser's Report.

5. SCHEME IMPLEMENTATION STEPS

5.1 **Company's obligations**: Without limiting clauses 2.3 and 2.4, the Company must use its reasonable endeavours, as soon as reasonably practicable, including in the timeframes prescribed by the Timetable, to:

(a) before the First Court Date, in consultation in good faith with the Acquirer, apply to the Takeovers Panel for a letter of intention indicating that the Takeovers Panel:

(i) intends to provide a statement under section 236A(2)(b)(ii) of the Companies Act stating that the Takeovers Panel has no objection to the Court granting the Final Orders; and

(ii) does not intend to seek to be heard by the Court in relation to the application for Initial Orders;

(b) without limiting sub-clause (a), the Company must:

(i) prior to sending any material correspondence to the Takeovers Panel relating to the Scheme (other than correspondence relating to a Competing Proposal), provide the Acquirer with a draft of that correspondence and consider in good faith all of the reasonable comments of the Acquirer and its Representatives on that correspondence;

(ii) promptly provide the Acquirer with a copy of all material correspondence to and from the Takeovers Panel relating to the Scheme (other than correspondence relating to a Competing Proposal); and

(iii) keep the Acquirer reasonably informed of any issues raised by the Takeovers Panel in connection with the Scheme Booklet or the Scheme (other than issues relating to a Competing Proposal) and consider in good faith all of the reasonable comments of the Acquirer and its Representatives on those issues;

(c) apply to the Court for Initial Orders under section 236(2) of the Companies Act convening the Scheme Meeting, and if the Court makes and seals those orders, dispatch the Scheme Booklet to Shareholders and hold the Scheme Meeting (including by putting the Scheme Resolution to a vote) in accordance with, and otherwise comply in all respects with, those Initial Orders;

(d) if the Initial Orders are granted and sealed by the Court, promptly deliver a copy of the Initial Orders to the Registrar for registration in accordance with section 236(4) of the Companies Act (and, in accordance with the requirements of the Companies Act, by no later than 10 working days (as defined in the Companies Act) after the date the Initial Orders are granted);

(e) upon sending the Scheme Booklet to Scheme Shareholders lodge a copy of that Scheme Booklet with NZX and ASX in accordance with the NZX Listing Rules and the ASX Listing Rules (as applicable);

(f) if the Scheme Resolution is passed by the requisite majorities of Shareholders as set out under section 236A(4) of the Companies Act, apply to the Takeovers Panel for the production of a statement under section 236A(2)(b)(ii) of the Companies Act stating that the Takeovers Panel has no objection to the Final Orders being granted by the Court under section 236(1) (and, if applicable, section 237) of the Companies Act;

(g) if the Scheme Resolution is passed by the requisite majorities of Shareholders, seek the Court's approval of the Final Orders;

(h) if the Scheme Resolution is passed by the requisite majorities of Shareholders and if requested by the Acquirer, promptly enter into, and use reasonable endeavours to procure that the Company's share registrar promptly enters into, an escrow agreement relating to the holding by the Company's share registrar of the aggregate Consideration on escrow pending implementation of the Scheme, on terms reasonably acceptable to the parties to that agreement;

(i) if the Court approves the Scheme in accordance with section 236(1) of the Companies Act (and once the Final Orders are sealed by the Court):

(i) promptly deliver to the Registrar for registration a copy of the Final Orders for registration in accordance with section 236(4) of the Companies Act (and, in accordance with the requirements of the Companies Act, by no later than 10 working days (as defined in the Companies Act) after the date the Final Orders are granted);

(ii) do all other things contemplated by or necessary to give full effect to the Scheme Plan and the Final Orders (including using reasonable endeavours to ensure that the Conditions have been satisfied in accordance with clause 3); and

(iii) and if the OIO Condition and FIRB Condition have been fulfilled:

(aa) use its reasonable endeavours to procure that the NZX and ASX suspend trading in the Shares from the close of trading on the date that is two Business Days after the Final Orders Date or such other date agreed between the parties in writing;

(bb) close the Register as at the Record Date to determine the identity of the Scheme Shareholders and their entitlements to the Consideration; and

(cc) subject to the Acquirer satisfying its obligations under clause 5.2(d), effect the transfer of the Scheme Shares to the Acquirer in accordance with the Scheme on the Implementation Date.

(iv) use its reasonable endeavours to procure that:

(aa) NZX ceases quotation of Shares and de-lists the Company with effect from close of trading on NZX on the Implementation Date;

(bb) ASX ceases quotation of Shares and de-lists the Company with effect from the close of trading on ASX on the day after the Implementation Date; and

(cc) without limiting subclause (bb), ASX does not cease quotation of Shares or de-list the Company before NZX has ceased quotation of Shares and de-listed the Company,

and the Company must:

(dd) prior to sending any material correspondence to NZX or ASX in respect of suspension or cessation of quotation of Shares or

de-listing of the Company, provide the Acquirer with a draft of that correspondence and consider in good faith all of the reasonable comments of the Acquirer and its Representatives on that correspondence;

(ee) promptly provide the Acquirer with a copy of all material correspondence to and from NZX and ASX in respect of suspension or cessation of quotation of Shares or de-listing of the Company; and

(ff) keep the Acquirer reasonably informed of any issues raised by NZX or ASX in respect of suspension or cessation of quotation of Shares or de-listing of the Company and consider in good faith all of the reasonable comments of the Acquirer and its Representatives on those issues.

5.2 **Acquirer's obligation**: Without limiting clauses 2.3 and 2.4, the Acquirer must:

(a) on the date of this agreement, deliver to the Company a copy of the Deed Poll duly executed by the Acquirer;

(b) if it or its Representatives solicit proxies for the Scheme Meeting, communicate with Shareholders in connection with the Scheme, or otherwise engage in Shareholder canvassing activities in respect of the Scheme:

(i) undertake such proxy solicitation, Shareholders communications or canvassing activities in compliance with all applicable laws, including the FMCA and the Fair Trading Act 1986;

(ii) provide to the Company copies of all written communications or correspondence to be provided to Shareholders, prior to being sent to Shareholders and allow a reasonable time for comment from the Company; and

(iii) provide to the Company copies of all call scripts being used for Shareholder canvassing activities promptly before the form of those scripts is approved for use and allow a reasonable time for comment from the Company,

and the Acquirer must consider and take into account in good faith all reasonable comments on such communications, correspondence and call scripts;

(c) without limiting clause 7.2, if requested by the Company, procure that it is represented by counsel at the Court hearings convened for the purposes of considering the Initial Orders and the Final Orders, at which (through its counsel), the Acquirer will undertake (if requested by the Court) to do all such things and take all such steps within its power as are necessary in order to ensure the fulfilment of its obligations under this agreement and the Scheme; and

(d) if the Court approves the Scheme in accordance with section 236(1) of the Companies Act (and once the Final Orders are sealed by the Court), do all other things contemplated by or necessary to give full effect to the Scheme Plan and the Final Orders (including using reasonable endeavours to ensure that the Conditions

have been satisfied in accordance with clause 3, and providing the Consideration in accordance with the Scheme and the Final Orders).

5.3 **Mercury implementation obligations**: Mercury must:

(a) if requested by the Company or the Acquirer, procure that it is represented by counsel at the Court hearings convened for the purposes of considering the Initial Orders and the Final Orders, at which (through its counsel), Mercury will undertake (if requested by the Court) to do all such things and take all such steps within its power as are necessary in order to ensure the fulfilment of its obligations under this agreement and the Scheme;

(b) if the Court approves the Scheme in accordance with section 236(1) of the Companies Act (and once the Final Orders are sealed by the Court), do all other things contemplated by or necessary to give full effect to the Scheme Plan and the Final Orders; and

(c) take such other steps as reasonably requested by the Court or the Company in connection with the NZ Separation to enable the Scheme to be approved by the Court.

5.4 **Obligation on becoming a Shareholder**: If, prior to the date of the Scheme Meeting, the Acquirer or any Associate of the Acquirer (other than Mercury) acquires beneficial ownership of, or effective control over, any Shares, the Acquirer must (or must procure such Associate to, as the case may be) as soon as reasonably practicable enter into a deed poll in the form set out in the Schemes Guidance Note under which the Acquirer (or such Associate, as the case may be) agrees to vote the relevant Shares in favour of the Scheme Resolution at the Scheme Meeting.

5.5 **Mercury deed poll**: Mercury must as soon as reasonably practicable following the date of this agreement enter into a deed poll in the form set out in the Schemes Guidance Note ("**Mercury Deed Poll**"), but also for the benefit of, and enforceable by, the Company, under which Mercury agrees to vote any Shares it holds in favour of the Scheme Resolution at the Scheme Meeting (for the avoidance of doubt, including for Mercury interest class approval of the Scheme Resolution).

6. COMPANY'S OTHER IMPLEMENTATION OBLIGATIONS

6.1 **Information about Shareholders**: The Company must:

(a) comply with all reasonable requests by the Acquirer to require disclosure of information in accordance with sections 290 and 291 of the FMCA and give the Acquirer the information obtained as a result of requiring such disclosure; and

(b) procure that its share registry provides to the Acquirer, in the form reasonably requested by the Acquirer, details of the Register and all other information about the Shareholders which the Acquirer reasonably requires in order to:

(i) canvas approval of the Scheme by Shareholders; or

(ii) facilitate the provision by the Acquirer of the Consideration in accordance with this agreement, the Scheme and the Deed Poll.

6.2 **Promotion of Transaction**:

(a) During the period commencing on the date of this agreement and ending on the first to occur of the termination of this agreement and the End Date, the Company will provide reasonable cooperation to the Acquirer in promoting the merits of the Transaction to Shareholders, including:

(i) encouraging Shareholders to exercise their rights to vote on the resolution to approve the Scheme at the Scheme Meeting; and

(ii) procuring that senior executives of the Tilt Renewables Group, as may be reasonably available, meet with key Shareholders if reasonably requested to do so by the Acquirer,

subject to there being no Superior Proposal and provided the Independent Adviser's Report has first concluded that the Consideration is within or above the Independent Adviser's valuation range for the Shares.

(b) The Acquirer agrees to pay all of the Tilt Renewables Group's reasonable out of pocket costs incurred promoting the Transaction to Shareholders up to a maximum of $100,000, provided that the Company and the Acquirer discuss in advance all promotional activities which relate to published materials, outbound programmed call scripts and other similar planned promotional materials and that the Acquirer is given a reasonable opportunity to comment on the strategy, form and content of such promotional activities and such comments are given reasonable consideration by the Company.

6.3 **Board changes**: Subject to the Consideration having been paid to the Scheme Shareholders, the Company must procure that:

(a) such persons as the Acquirer nominates by notice to the Company no later than 4 Business Days before the Implementation Date and who have provided to the Company signed consent(s) to act by that time (as well as any other information required to be provided to the Registrar) are appointed as additional directors of each member of the Tilt Renewables Group specified in the notice, on the Implementation Date (by no later than 5:00pm); and

(b) unless otherwise agreed by the Acquirer in writing, each director and secretary (if applicable) of each member of the Tilt Renewables Group, other than those appointed in accordance with clause 6.3(a), resigns as a director or secretary (as applicable) with effect from the Implementation Date (by no later than 5:00pm on the Implementation Date) and acknowledges in writing that he or she has no claim against any member of the Tilt Renewables Group other than for accrued but unpaid directors fees and expenses or under the D&O Run-off Policy.

6.4 **Permitted Dividend**:

(a) Prior to the Implementation Date, but subject to compliance with all relevant law, the Company may declare and pay a dividend (which may carry imputation credits to the extent available to the Company) together with any related supplementary dividend (as defined in s YA 1 of the Income Tax Act 2007) (such dividend being the "**Permitted Dividend**").

(b) The Permitted Dividend must not exceed 8.1 cents per Share.

(c) The Company may attach imputation credits to the Permitted Dividend, provided that:

(i) the imputation credits attached to the Permitted Dividend must not exceed the Company's imputation credit balance on the date of this agreement (subject to any adjustment after the date of this agreement for income tax payments, income tax refunds and other transactions that may affect the imputation credit account, in each case as reasonably expected prior to the Implementation Date);

(ii) in any event, the Company's imputation credit account must not be in a debit position following the payment of the Permitted Dividend (taking into account income tax payments, income tax refunds and other transactions that may affect the imputation credit account, in each case as reasonably expected after payment of the Permitted Dividend and prior to the Implementation Date);

(iii) the Company must provide the Acquirer at least 10 Business Days' prior notice of its intention to authorise the Permitted Dividend, which notice must:

(aa) set out the proposed amount of the Permitted Dividend, the extent to which the Company proposes to impute the Permitted Dividend and details of any proposed supplementary dividend; and

(bb) be accompanied by the Company's calculation of the imputation credit account (including a reconciled imputation credit account summary setting out the Company's forecast imputation credit balance after payment of the Permitted Dividend) and reasonable supporting evidence for that calculation.

(d) The Company must not pre-pay income tax for the purpose of increasing the Company's imputation credit account balance.

(e) The parties acknowledge and agree that the Consideration will be reduced by the cash component of the Permitted Dividend, where the record date for any such dividend falls between the date of this agreement and the Implementation Date.

7. COURT PROCEEDINGS

7.1 **Court documents**:

(a) In relation to each Court application made in relation to the Scheme, including any appeal, the Company must give the Acquirer drafts of all documents required to be given by the Company to the Court (including the originating applications, affidavits, memoranda, submissions and draft Court orders) a reasonable time before they are due to be submitted to the Court (and in any event, except in situations of urgency, not less than 72 hours before submission) and must consider

in good faith whether to incorporate the reasonable comments of the Acquirer and its Representatives on those documents.

(b) The Company must not provide the Court with any Court orders (whether in draft or not) or applications for Court orders, or consent to any changes to any Court orders, without the Acquirer having approved (acting reasonably) such documents being submitted to the Court or such changes being consented to.

7.2 **Representation**: In relation to each Court application or appearance made in relation to the Scheme, including any appeal, the Company will consent to the separate representation of the Acquirer and Mercury by counsel and the Acquirer and Mercury may appear and be represented in relation to the Court applications or other appearances relating to the Scheme.

7.3 **Assistance**: The Company will use its reasonable endeavours to follow the steps or matters specified by the Court, or apparent from its directions or reasons, as required or desirable in order to grant the Initial Orders or Final Orders (as the case may be) or requirements of the Takeovers Panel, including, if indicated, providing supplementary information to Shareholders and/or convening a second Scheme Meeting.

7.4 **Appeal if orders not made**: If the Court does not make any order sought by the Company under clause 5 (the "**Decision**"), then, subject to first complying with clause 7.3:

(a) the Company, Mercury and the Acquirer must consult in good faith as to the effect of the refusal and whether to appeal the Decision, and, where applicable, whether amendments need to be made to the Timetable and/or the End Date;

(b) if within 10 Business Days after the date of the Decision the parties agree to appeal the Decision or any party obtains an opinion from an independent Queen's Counsel, practising in the field of corporate and securities law litigation, to the effect that there is a reasonable prospect of successfully appealing the Decision, then:

(i) the Company must appeal the Court's decision within the timeframes set out in rule 29 of the Court of Appeal (Civil) Rules 2005;

(ii) the cost of any such appeal is to be borne:

(aa) if the Company and Acquirer agreed to appeal the Decision, equally between those parties; or

(bb) if the Company and the Acquirer did not agree to appeal the Decision, by the party who obtained the opinion from an independent Queen's Counsel;

(iii) if the End Date would otherwise occur before the appeal is finally determined, the End Date is deferred to the date that is 10 Business Days after the date that the appeal from the Decision is finally determined provided, however, that the End Date cannot be extended beyond the date that is 12 months after the date of this agreement without the prior written agreement of both the Acquirer and the Company; and

(iv) if the appeal is successful and the relevant order is made, the End Date is further deferred (excluding any deferral under sub-clause (iii)) by the number of Business Days contemplated by the Timetable between the Final Orders Date and the Implementation Date (inclusive).

8. RECOMMENDATION AND VOTING INTENTIONS

8.1 **Recommendation and voting**: The Company must ensure that each Non-Conflicted Director:

(a) recommends that Shareholders vote in favour of the Scheme; and

(b) undertakes to vote, or procure the voting of, all of the Shares held or controlled by him or her in favour of the Scheme,

in each case subject to:

(c) there being no Superior Proposal; and

(d) the Independent Adviser's Report concluding that the Consideration is within or above the Independent Adviser's valuation range for the Shares.

8.2 **Change to recommendation or voting intentions**:

(a) The Company must ensure that no Non-Conflicted Director changes, qualifies, withdraws or adversely modifies the recommendation or undertaking referred to in clause 8.1 or makes any statement inconsistent with that recommendation or that undertaking, unless the Company receives a Superior Proposal or the Independent Adviser's Report concludes that the Consideration is below the Independent Adviser's valuation range for the Shares.

(b) If the Board or the Company becomes aware that a Non-Conflicted Director is likely to change, adversely qualify, withdraw or adversely modify his or her recommendation or undertaking as described in clause 8.1, or make any statement inconsistent with that recommendation or undertaking, the Company must:

(i) promptly give written notice to the Acquirer of such event and any public statement that the Board intends to make if such event occurs; and

(ii) consult in good faith with the Acquirer in respect of the relevant event, before publication of such public statement, to the extent permitted by law.

8.3 **Customary qualifications and information for Shareholders**:

(a) For the avoidance of doubt, the statement by each Non-Conflicted Director that his or her recommendation of, and his or her stated intention to vote in favour of, the Scheme is made in the absence of a Superior Proposal and subject to the Independent Adviser's Report concluding that the Consideration is within or above the Independent Adviser's valuation range for the Shares will not be regarded as a failure to make, a withdrawal of, or an adverse revision, qualification or modification of, a recommendation of, or statement of intention to vote in favour of, the Scheme.

(b) If a Company Director is a Non-Conflicted Director on the date of this agreement but subsequently becomes a Conflicted Director, such Conflicted Director abstaining from providing the recommendation and undertaking referred to in clause 8.1 will not be considered to be a change, qualification, withdrawal or adverse modification of the recommendation or undertaking referred to in clause 8.1 or the making of a statement inconsistent with that recommendation or that undertaking, and such abstention shall not give rise to a termination right under clause 14.5(a) or constitute a circumstance which would give rise to payment of the Break Fee under clause 15.2(b).

9. ACCESS, INFORMATION AND CONDUCT OF BUSINESS

9.1 **Access and information**: From the date of this agreement until the Implementation Date, the Company must:

(a) procure that the Acquirer, Mercury and their respective Representatives are given reasonable access to:

(i) the properties, books and records and senior management of the Tilt Renewables Group, during normal business hours, and on reasonable notice to the Company; and

(ii) information about the Business reasonably requested by the Acquirer, Mercury and their respective Representatives,

for the purposes of:

(iii) implementing the Scheme and enabling the Acquirer or Mercury to prepare for the transition of ownership of the Tilt Renewables Group to the Acquirer and Mercury; and

(iv) any other purpose agreed between the Company, the Acquirer and Mercury in writing,

except to the extent that the provision of such access is prohibited by law or any confidentiality obligations owed by any member of the Tilt Renewables Group to third parties and provided that:

(v) the Acquirer and Mercury will each focus on issues that it considers to be material, having regard to management commitments and the impact of information requests on the Company's Business;

(vi) providing access and/or information pursuant to this clause 9.1(a) is done in a way which minimises disruption to the Company's Business; and

(vii) nothing in this clause 9.1(a) will require the Company to provide information concerning its directors' and management's consideration of the Scheme or any Competing Proposal or require the disclosure of any document that would compromise the Tilt Renewables Group's legal professional privilege;

(b) keep the Acquirer updated on all material developments in its Business and procure that senior management of the Tilt Renewables Group meet with Representatives of the Acquirer on a regular basis (either in person or by teleconference), to discuss and consult in good faith with the Acquirer in respect of material developments relating to the Rye Park project and any other material matters which the Acquirer may reasonably raise from time to time relating to the Business provided, however, that nothing in this clause 9.1(b) grants the Acquirer an approval right in respect of any matter being discussed or consulted on; and

(c) provide the Acquirer and Mercury with copies of papers provided to the Board within three Business Days after they are provided to Board members, however, the Company may redact information from such papers to the extent it is commercially sensitive or relates to the Transaction or a Competing Proposal,

provided that to the extent that any information is provided under this clause 9.1 that is not publicly available, it will be kept confidential by the recipient of that information in accordance with the confidentiality agreements referred to in clause 20.5.

9.2 **Conduct of business; positive obligations**: From the date of this agreement until and including the Implementation Date, the Company must procure that:

(a) the Business is carried on as a going concern and in the normal and ordinary course, consistent with past practices in the 12 months preceding the date of this agreement;

(b) the Acquirer and Mercury are promptly notified of:

(i) any claim that is made or legal proceedings instituted against the Company, or any other member of the Tilt Renewables Group, or any director or employee of the Company or of any other member of the Tilt Renewables Group (of which it becomes aware), other than any claim or legal proceeding that has potential liability which is less than A$1,000,000;

(ii) any decision by the Company or any other member of the Tilt Renewables Group, to initiate or settle any claims, disputes, demands or proceedings for an amount resulting in a cost to the Tilt Renewables Group which in aggregate exceeds A$1,000,000; and

(iii) any actual or threatened material enquiries or investigations by any Government Agency in relation to the Business (including in relation to Tax) and any material correspondence with any Government Agency in relation to the Business;

(c) all insurance policies currently in force at the date of this agreement in favour of the Tilt Renewables Group and the Business are maintained on materially the same terms and conditions, and that all premiums payable in respect of such policies are paid when due.

9.3 **Conduct of business; negative obligations**: From the date of this agreement until and including the Implementation Date, the Company must procure that it, and each other member of the Tilt Renewables Group, does not:

(a) create or incur any liability or indebtedness (whether contingent or otherwise, and including by way of drawing down on any facility), except:

(i) normal liabilities or indebtedness incurred in the ordinary course of the Business, provided, however, that, the Company must consult with the Acquirer prior to the Tilt Renewals Group incurring any liabilities under this sub-clause (i) where the value of such liabilities (or related series of liabilities) exceeds A$5,000,000 and the incurring of such liabilities is not otherwise permitted by clause 9.4; or

(ii) indebtedness in respect of unbudgeted capital expenditure (to the extent permitted under clause 9.3(k)) or indebtedness incurred to finance a project referred to in clause 9.4(j);

(b) create or otherwise permit to arise any Encumbrance over any of its assets (other than to secure any indebtedness permitted by this agreement);

(c) commence, compromise or settle any litigation, arbitration or other similar proceedings for an amount exceeding A$1,000,000;

(d) provide any guarantee of, or security for, or indemnity in connection with the obligations of any person other than another member of the Tilt Renewables Group which is incorporated in the same jurisdiction;

(e) acquire any qualifying interest in "sensitive land" for the purposes of the Overseas Investment Act 2005;

(f) exceed borrowing or cash reserve limitations as established by any financier of the Tilt Renewables Group;

(g) make any material Taxation election (other than an election in the ordinary course of the Business), or settle or compromise any material Tax liability;

(h) make any change in accounting methods, principles, policies or practices used by it (except if required by a change in International Financial Reporting Standards);

(i) employ any new employees, other than:

(i) new hires contemplated in the Due Diligence Material or new hires employed in the ordinary course of the Business where such hires are made to fill a vacant position within the Business (and provided that the terms and remuneration of those new hires are equivalent to those on which the departed employee was employed); or

(ii) employees with an annual remuneration of less than A$250,000;

(j) alter the remuneration or other conditions of employment or engagement (including by approving or adopting any new or amended employee benefit scheme) of any of its directors, officers, senior employees and executives, other than changes consistent with the normal business practices employed by the Tilt Renewables Group or as contemplated by clause 9.5;

(k) make any payment of, or incur (or enter into), any unbudgeted capital expenditure, except in the ordinary course of business, provided, however, that the Company must consult with the Acquirer prior to the Tilt Renewals Group paying or incurring any capital expenditure under this sub-clause 9.3(k) where the value of such capital expenditure (or related series of capital expenditure) exceeds A$2,000,000 and the incurring of such capital expenditure is not otherwise permitted by clause 9.4;

(l) issue, redeem, buy back, or transfer any shares, options or other securities, or increase, reduce or otherwise alter its share capital, or grant any options or rights for the issue of shares or other securities (other than (i) as contemplated by clause 9.5, or (ii) by a direct wholly owned Subsidiary of the Company to the Company; or (iii) by an indirect wholly owned Subsidiary of the Company to that Subsidiary's direct holding company);

(m) alter, adopt or revoke the provisions of its constitution (other than to comply with law, including the NZX Listing Rules);

(n) enter into, vary, waive any rights (including by failing to exercise any material right where it is in the control of any member of the Tilt Renewables Group, or failing to use reasonable endeavours to avoid a material right or option lapsing) or agree to release any counterparty from liability or obligations under or terminate any contract, or series of contracts which should reasonably be assessed together, where the aggregate payments by the Tilt Renewables Group in any 12-month period exceed A$2,000,000, other than in the ordinary course of its Business;

(o) pay, incur, or agree to pay or incur advisory fees and similar transaction costs in connection with the Scheme in excess of the limit stated in the Disclosure Letter;

(p) use any captive insurance entity within the Tilt Renewables Group to insure or self-insure any risk relating to the Tilt Renewables Group, its Business or any of its assets;

(q) enter into any new transaction with a related party (as defined in the NZX Listing Rules) that is material in the context of the Tilt Renewables Group taken as a whole; or

(r) dispose of any material asset, contract or right that relates to, or was acquired or is held for the purposes of, any development projects of the Business.

In respect of the materiality qualifiers in clauses 9.3(n) and 9.3(r), an assessment of the materiality of an item includes an assessment of the importance of that item to the development projects of the Business.

9.4 **Exceptions**: Nothing in clauses 9.2 or 9.3 restricts the Company (or any other member of the Tilt Renewables Group) from doing anything which is:

(a) expressly contemplated or required by this agreement (including in clause 9.5 and including incurring indebtedness to the extent permitted by clause 9.3(a) and granting security to the extent permitted by clause 9.3(b)) or required to give effect to the Scheme;

(b) necessary for the Company (or any other member of the Tilt Renewables Group) to perform or comply with its contractual obligations;

(c) necessary for the Company (or any other member of the Tilt Renewables Group) to comply with any law or any regulatory requirement or direction of a Government Agency;

(d) necessary for the Company (or any other member of the Tilt Renewables Group) to preserve or maintain the continuity of the Business or respond to any emergency, act of god or other disaster;

(e) fairly disclosed in the Due Diligence Materials (including in any operating or capex budgets disclosed in the Due Diligence Materials) or by the Company through the NZX markets announcements platform before the date of this agreement;

(f) undertaken in response to a Competing Proposal, but only to the extent that the action is expressly permitted by clause 13;

(g) undertaken in connection with the renewal of the Tilt Renewables Group's insurance programme in the ordinary course of business;

(h) entering into hedging or derivative arrangements in relation to large-scale generation certificates;

(i) entering into power purchase agreements (or similar) in relation to existing or future electricity production, provided that the Company has first consulted with the Acquirer regarding the proposed agreement;

(j) involved in progressing the Rye Park project and the Snowtown battery project (and such progression may include all steps to achieve financial close including entering into any and all agreements, deeds, instruments, consents, forms, notices, letters and other documents in connection with the financing, design, construction, operation and maintenance of any such project); or

(k) approved in writing by the Acquirer and Mercury, such approval not to be unreasonably withheld, conditioned or delayed.

9.5 **Restricted Shares and Performance Rights**:

(a) The Acquirer acknowledges that as at the date of this agreement:

(i) there are 398,415 outstanding Awards that have been issued under the Restricted Share Scheme (ie, Awards whose Allocation Date is after the date of this agreement);

(ii) there are 1,650,138 Performance Rights that have been issued by the Company in respect of 1,650,138 Shares for participants in the Performance Rights Plan; and

(iii) there are 146,292 outstanding Construction Bonus Rights in respect of 146,292 Shares.

(b) Upon the Final Orders being sealed by the Court, a Control Event will have occurred under the Restricted Share Scheme and, in relation to each Award:

(i) (if the Control Event occurs before the Allocation Date of such Award) the relevant Participant will receive a cash sum determined in accordance with rule 11.1(a) of the Restricted Share Scheme (therefore, no new Shares will be issued in this circumstance) and the Company shall pay such sum (less any applicable taxes and other deductions) to such Participant on or before the Implementation Date; and

(ii) (if the Control Event occurs on or after the Allocation Date of such Award but prior to the relevant Transfer Date) all restrictions on Dealing imposed in accordance with rule 10 of the Restricted Share Scheme in respect of the Restricted Shares obtained under the Restricted Share Scheme will cease to have effect as contemplated by rule 11.1(b) of the Restricted Share Scheme and the Company will procure that the Trustee will transfer any Restricted Shares held by the Trustee on trust for Participants to the relevant Participants prior to the Record Date (it being acknowledged that the maximum number of Shares that could be issued between the date of this agreement and the Implementation Date pursuant to the Restricted Share Scheme is 398,415 Shares ("**Maximum RSS Shares**") with all such Shares to be included as Scheme Shares).

For the avoidance of doubt, each Restricted Share held by a Participant under the Restricted Share Scheme as at the Record Date will be transferred to the Acquirer in accordance with the Scheme for the Consideration upon the Scheme becoming Effective.

(c) Upon the Final Orders being sealed by the Court, a Control Event will have occurred under the Performance Rights Plan and:

(i) each Participant's Performance Rights will become available for immediate vesting subject to accelerated testing as contemplated by rule 14(a) of the Performance Rights Plan (resulting in a maximum number of 1,650,138 Shares being issued pursuant to the Performance Rights Plan ("**Maximum PRP Shares**") with such Shares to be included as Scheme Shares);

(ii) the Company will immediately notify each Participant in accordance with rule 14(b) of the Performance Rights Plan of:

(aa) the number of such Participant's Performance Rights that vested in accordance with rule 14(a) of the Performance Rights Plan and the Company will ensure that the Exercise Period for such Performance Rights ends on the date prior to the Record Date; and

(bb) the number of such Participant's Performance Rights that lapsed in accordance with rule 14(a) of the Performance Rights Plan;

(iii) all restrictions on Dealing with Shares imposed by rule 13 of the Performance Rights Plan will cease to have effect and the Company shall promptly give written notice to each Participant of this fact.

(d) Prior to the Record Date, it is expected that each Construction Bonus Right will entitle the holder to be issued one Share (resulting in a maximum number of 146,292 Shares being issued to the holders of the Construction Bonus Rights ("**Maximum CBR Shares**") with such Shares to be included as Scheme Shares).

(e) The Company must ensure that:

(i) any Performance Rights that do not vest in accordance with rule 14(a) of the Performance Rights Plan lapse prior to the Record Date such that, on the Implementation Date, there are no Performance Rights on issue;

(ii) no more than the Maximum RSS Shares are issued under the Restricted Share Scheme between the date of this agreement and the Implementation Date, and that any such Maximum RSS Shares are issued prior to the Record Date such that those Shares are Scheme Shares;

(iii) no more than the Maximum PRP Shares are issued under the Performance Rights Plan between the date of this agreement and the Implementation Date, and that any such Maximum PRP Shares are issued prior to the Record Date such that those Shares are Scheme Shares;

(iv) no more than the Maximum CBR Shares are issued to holders of Construction Bonus Rights between the date of this agreement and the Implementation Date, and that any such Maximum CBR Shares are issued prior to the Record Date such that those Shares are Scheme Shares; and

(v) no Construction Bonus Rights or Awards remain outstanding on the Implementation Date.

(f) The Acquirer acknowledges that the Company will not issue any further Awards, Performance Rights or Construction Bonus Rights between the date of this agreement and the Implementation Date. The Company is, however, entitled to provide cash incentives to employees of the Tilt Renewables Group as part of their remuneration package in lieu of such Awards, Performance Rights and Construction Bonus Rights provided that:

(i) the aggregate value of such cash incentives does not exceed 105% of the value of the Awards, Performance Rights and Construction Bonus Rights provided in the previous year based on the Consideration for each Scheme Share (the "**2020 Value**"); and

(ii) the cash incentives are pro-rated for the period from 1 April 2021 to the Implementation Date (so, for example, if such period was six months the recipients of such cash incentives would be entitled to a maximum amount equal to half of the 2020 Value).

(g) In clauses 9.5(a)(i) and 9.5(b), the terms "**Award**", "**Allocation Date**", "**Control Event**", "**Dealing**", "**Participant**", "**Transfer Date**" and "**Trustee**" have the meaning given to them in the Restricted Share Scheme.

(h) In clause 9.5(c), the terms "**Control Event**", "**Dealing**", "**Exercise Period**" and "**Participant**" have the meaning given to them in the Performance Rights Plan.

9.6 **Financing**:

(a) The Company agrees to provide timely cooperation in connection with the debt financing arrangements of the Tilt Renewables Group after the Scheme Meeting, including:

(i) facilitating liaison between the Acquirer and the Company's existing financiers, as may be reasonably requested by the Acquirer from time to time;

(ii) providing the Acquirer with financial and other pertinent information regarding the Tilt Renewables Group or any Tilt Renewables Group member as may be reasonably requested by the Acquirer;

(iii) making available such senior executives of the Company as reasonably requested by the Acquirer at mutually convenient times for conference calls, meetings or presentations to existing or potential financiers of the Tilt Renewables Group,

provided that:

(iv) no Tilt Renewables Group member shall be required to execute prior to the Implementation Date any agreements in respect of any such financing; and

(v) the Acquirer must promptly reimburse the Company for all reasonable out-of-pocket costs incurred by the Company in connection with any co-operation provided pursuant to this clause 9.6.

(b) Notwithstanding clause 9.6(a)(iv), if the Company determines in its sole discretion that it wants to enter into the new debt financing arrangements of the Tilt Renewables Group that the Acquirer has procured pursuant to clause 9.6(a), or the Company has otherwise developed prior to the Implementation Date, the Acquirer will assist the Company in respect of such arrangements (subject to any approval required pursuant to clause 9.4(k)).

9.7 **NZ Separation**: The Company agrees to provide timely cooperation to the Acquirer and Mercury in connection with the NZ Separation (including in relation to post-Implementation insurance), including:

(a) facilitating liaison between the Acquirer, Mercury and the Company's existing financiers and insurers, as may be reasonably requested by the Acquirer or Mercury from time to time;

(b) providing the Acquirer and Mercury with assistance (including facilitating discussions with relevant counterparties) in connection with the proposed release

(with effect from the Implementation Date and for the purposes of the NZ Separation) of relevant guarantees, comfort letters, letters of financial support or security given by members of the Tilt Renewables Group in relation to liabilities or obligations of the NZ Subsidiaries;

(c) providing the Acquirer and Mercury with financial and other pertinent information regarding the Tilt Renewables Group or any Tilt Renewables Group member (including, without limitation, information to assist in identifying which Tilt Renewables Group members have title to assets, or are parties to contracts, relating to the NZ Business) as may be reasonably requested by the Acquirer or Mercury in connection with the NZ Separation;

(d) making available such senior executives of the Company as reasonably requested by the Acquirer or Mercury at mutually convenient times for conference calls or meetings in connection with the NZ Separation;

(e) facilitating Mercury to make offers of employment to employees of the Company primarily involved in relation to the NZ Business in compliance with relevant employment contract notice periods in advance of, but subject to and effective as at, Implementation; and

(f) assisting Mercury to develop transitional arrangements in connection with access to and use of IT systems or the migration of relevant data to Mercury's existing IT systems, from Implementation Date,

provided that:

(g) no Tilt Renewables Group member shall be required to execute prior to the Implementation Date any agreements (other than this agreement and the Scheme Plan) in respect of the NZ Separation; and

(h) the Acquirer must promptly reimburse the Company for all reasonable out-of-pocket costs incurred by the Company in connection with any co-operation provided pursuant to this clause 9.7.

10. BUSINESS CONTRACTS AND LEASES

10.1 **Acknowledgement**: The parties acknowledge that the Tilt Renewables Group's material leases and contracts may contain provisions requiring:

(a) the consent of the counterparty to that lease or contract to a change of control, assignment or "deemed assignment" or similar that arises under the terms of that lease or contract as a result of the Transaction; or

(b) a waiver from the counterparty to that lease or contract of any review, termination or cancellation right which will arise or otherwise become enforceable under the terms of that lease or contract as a result of the Transaction,

(each a "**Change of Control Consent**").

10.2 **Change of Control Consent**: Subject to clause 10.4:

(a) the Company will, and will procure that each member of the Tilt Renewables Group will, use reasonable endeavours to obtain each Change of Control Consent that the Acquirer and Mercury identify and request that it obtain; and

(b) the Acquirer and Mercury must each cooperate with and use its reasonable endeavours to assist the Company to obtain each required Change of Control Consent (but without contacting any contractual counterparties directly without the Company's consent).

10.3 **NZ Transferring Contracts**: Subject to clause 10.4:

(a) the Company will, and will procure that each member of the Tilt Renewables Group will, use reasonable endeavours to obtain consent from the counterparties to each NZ Transferring Contract to the assignment of the Company's right, title and interest in those contracts to, and the assumption of the Company's obligations under those contracts by, Mercury with effect from the Implementation Date (with the Company being released from such obligations on and from assignment); and

(b) Mercury must cooperate with and use its reasonable endeavours to assist the Company to obtain each required consent under clause 10.3(a) (but without contacting any contractual counterparties directly without the Company's consent).

10.4 **No obligation to pay money**: Nothing in this clause 10 will require any party to pay any money or provide any other valuable consideration to or for the benefit of any person (other than: (i) to provide a replacement guarantee or similar security that a lessor is entitled to require under the terms of a lease; or (ii) where required pursuant to an obligation under a contract or lease to reimburse the reasonable out-of-pocket costs of any counterparty considering a request for consent).

10.5 **Scheme to proceed**: The implementation of the Scheme will not be delayed if all or any required Change of Control Consents have not been obtained on or before the Implementation Date.

11. WARRANTIES AND UNDERTAKINGS

11.1 **Company Warranties and undertakings**:

(a) The Company represents and warrants to the Acquirer and Mercury that, subject to the limitations in this agreement, each of the Company Warranties is true, accurate and not misleading as at:

(i) the date of this agreement;

(ii) immediately prior to the last affidavits being filed in respect of the Final Orders; and

(iii) 8:00am on the Implementation Date,

except that a Company Warranty which refers to a specific date is given only at that date.

(b) The Company undertakes to the Acquirer and Mercury to comply with the Company Undertakings.

(c) The Company Warranties (other than the Fundamental Warranties, which are not given subject to any qualifications) are given on the basis that they will take effect subject to and are qualified by any matter:

(i) expressly provided for in this agreement;

(ii) fairly disclosed in the Due Diligence Materials or by the Company through the NZX market announcements platform before the date of this agreement;

(iii) any matter recorded:

(aa) in respect of the Company, in a register or records held by the Registrar as at 22 February 2021 and the New Zealand Personal Property Securities Register as at 25 February 2021;

(bb) as at 5 March 2021, in a register or records held by the Australian Personal Properties and Securities Register;

(cc) in respect of the NZ Subsidiaries, in a register or in records held by the Registrar, the Intellectual Property Office of New Zealand, the High Court of New Zealand, the New Zealand Personal Property Securities Register or Land Information New Zealand as at 15 February 2021; or

(dd) as at 8 February 2021, in a register or in records held by registries of the High Court of Australia, the Federal Court of Australia or the Supreme Court of any Australian State or Territory;

(iv) within the actual knowledge of the Acquirer or Mercury as at the date of this agreement, which for these purposes will be taken to include (and be limited to) the facts, matters and circumstances of which the following individuals are actually aware as at the date of this agreement after due enquiry in the context of the Transaction:

(aa) Angela Karl;

(bb) Geoff Dutaillis; and

(cc) Tom Villiers.

(d) No warranty or representation is given by or on behalf of the Company, and neither the Acquirer nor Mercury may bring any claim, with respect to any information that is a forecast, projection, estimate, opinion or other forward looking statement as to the future performance, financial condition, results of operations, strategy and plans of the Tilt Renewables Group, in each case whether contained in the Due Diligence Material or otherwise.

(e) The Company, the Acquirer and Mercury agree that, for the purposes of section 5D of the Fair Trading Act 1986 and section 43 of the Consumer Guarantees Act 1993:

(i) the Scheme Shares and the NZ Transferring Assets are being acquired in trade;

(ii) the Company, the Acquirer and Mercury are all in trade;

(iii) sections 9, 12A, 13 and 14(1) of the Fair Trading Act 1986 and the provisions of the Consumer Guarantees Act 1993 do not apply to this agreement or to any matters, information, representations or circumstances covered by this agreement;

(iv) it is fair and reasonable that the Company, the Acquirer and Mercury are bound by this clause 11.1(e); and

(v) the Company, the Acquirer and Mercury have each been able to fully negotiate the terms of this agreement and have each been represented by and received advice from a lawyer during the negotiations leading to this agreement.

(f) The Company agrees with the Acquirer and Mercury (in its own right and separately as trustee or nominee on behalf of each of the other AM Indemnified Persons) to indemnify the AM Indemnified Persons from any claim, action, damages, loss, liability, cost, expense or payment of whatever nature and however arising which the Acquirer or Mercury or any of the other AM Indemnified Persons suffers, incurs or is liable for arising out of any breach of any of the Company Warranties or Company Undertakings.

11.2 **Acquirer warranties and undertakings**:

(a) The Acquirer represents and warrants to the Company that, subject to the limitations in this agreement, each of the Acquirer Warranties is true, accurate and not misleading as at:

(i) the date of this agreement;

(ii) immediately prior to the last affidavits being filed in respect of the Final Orders; and

(iii) 8:00am on the Implementation Date.

(b) The Acquirer undertakes to the Company to comply with the Acquirer Undertakings.

(c) The Acquirer agrees with the Company (in its own right and separately as trustee or nominee on behalf of each of the other Company Indemnified Persons) to indemnify the Company Indemnified Persons from any claim, action, damages, loss, liability, cost, expense or payment of whatever nature and however arising which the Company or any of the other Company Indemnified Persons suffers, incurs or is liable for arising out of any breach of any of the Acquirer Warranties or Acquirer Undertakings.

11.3 **Mercury warranties and undertakings**:

(a) Mercury represents and warrants to the Company that, subject to the limitations in this agreement, each of the Mercury Warranties is true, accurate and not misleading as at:

(i) the date of this agreement;

(ii) immediately prior to the last affidavits being filed in respect of the Final Orders; and

(iii) 8:00am on the Implementation Date.

(b) Mercury undertakes to the Company to comply with the Mercury Undertakings.

(c) Mercury agrees with the Company (in its own right and separately as trustee or nominee on behalf of each of the other Company Indemnified Persons) to indemnify the Company Indemnified Persons from any claim, action, damages, loss, liability, cost, expense or payment of whatever nature and however arising which the Company or any of the other Company Indemnified Persons suffers, incurs or is liable for arising out of any breach of any of the Mercury Warranties or Mercury Undertakings.

11.4 **No representations made on economic or future matters:** Each party acknowledges and agrees that the other parties make no representation or warranty other than as set out in this clause 11 and, in particular, at no time has any other party made or given any representation or warranty in relation to the achievability of:

(a) any economic, fiscal or other interpretations or evaluations by it; or

(b) future matters, including future or forecast costs, prices, revenues or profits.

11.5 **Separate; independent**: Each of the warranties given by each party are separate and independent and, except as expressly provided, will not be limited by reference to any other warranty.

11.6 **Scheme becoming Effective**: After 8.00am on the Implementation Date, any breach of the warranties or the undertakings made or given under this clause 11 may only give rise to a claim for damages and does not entitle a party to terminate this agreement.

11.7 **Waiver of claims**:

(a) Each of the Acquirer and Mercury waives and releases, and must procure that each member of the Acquirer Group or the Mercury Group (as applicable) waives and releases, all rights and claims which it may have against any Company Indemnified Person (other than the Company) in respect of any misrepresentation, inaccuracy or omission in or from any information or advice given by that Company Indemnified Person in connection with any representation, warranty or undertaking given by the Company in this agreement or the preparation of the Company Information except where the Company Indemnified Person has engaged in wilful misconduct or fraud. The parties acknowledge and agree that:

(i) the Company has sought and obtained the waiver and release in this clause 11.7(a) as agent for and on behalf of each Company Indemnified Person and may enforce the provisions of this clause 11.7(a) on behalf of any Company Indemnified Person;

(ii) any Company Indemnified Person may plead this clause 11.7(a) in response to any claim made by any member of the Acquirer Group or the Mercury Group against them; and

(iii) the undertakings contained in this clause 11.7(a) are given for the benefit of each Company Indemnified Person and are intended to be enforceable against the Acquirer and Mercury by each Company Indemnified Person in accordance with the provisions of Part 2, Subpart 1 of the Contract and Commercial Law Act 2017.

(b) The Company waives and releases, and must procure that each member of the Tilt Renewables Group waives and releases, all rights and claims which it may have against any AM Indemnified Person (other than the Acquirer and Mercury) in respect of any misrepresentation, inaccuracy or omission in or from any information or advice given by that AM Indemnified Person in connection with any representation, warranty or undertaking given by the Acquirer or Mercury in this agreement or the preparation of the Acquirer Information or Mercury Information except where the AM Indemnified Person has engaged in wilful misconduct or fraud. The parties acknowledge and agree that:

(i) the Acquirer and Mercury, as applicable, has sought and obtained the waiver and release in this clause 11.7(b) as agent for and on behalf of each AM Indemnified Person and may enforce the provisions of this clause 11.7(b) on behalf of any AM Indemnified Person;

(ii) any AM Indemnified Person may plead this clause 11.7(b) in response to any claim made by any member of the Tilt Renewables Group against them; and

(iii) the undertakings contained in this clause 11.7(b) are given for the benefit of each AM Indemnified Person and are intended to be enforceable against the Company by each AM Indemnified Person in accordance with the provisions of Part 2, Subpart 1 of the Contract and Commercial Law Act 2017.

12. INSURANCE

12.1 **Insurance policies**:

(a) The Acquirer and Mercury acknowledge that, subject to clause 12.1(b), the Company may, prior to the Implementation Date, enter into a run-off directors' and officers' liability insurance policy in respect of any Company Directors or officers (or the directors or officers of any other member of the Tilt Renewables Group) for a 7-year period (the "**D&O Run-off Policy**") and, provided the D&O Run-off Policy is obtained at normal commercial rates and prices, pay all premiums required.

(b) Provided that the D&O Run-off Policy is, to the extent practicable, obtained at normal commercial rates and prices and the cover is not more favourable than those of the Company's directors' and officers' liability insurance at the date of this agreement, the Acquirer and Mercury agree that:

(i) the Company entering into and paying the premium for the D&O Run-off Policy does not breach any provision of this agreement; and

(ii) after the Implementation Date it will not, and will procure that no member of the Tilt Renewables Group will, vary or cancel the D&O Run-off Policy (for so long as such member of the Tilt Renewables Group remains a Related Company of the Acquirer or Mercury, as applicable).

(c) In this section, a reference to director includes a former director and a reference to officer includes a former officer.

13. EXCLUSIVITY AND MATCHING RIGHTS

13.1 **No shop restriction**: Subject to clause 13.13, during the Exclusivity Period, the Company 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 13.1(a) on its behalf.

13.2 **No talk restriction**: Subject to clause 13.3 and clause 13.13, during the Exclusivity Period, the Company 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 13.2(a) on its behalf,

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

13.3 **No talk exception**: The restriction in clause 13.2 does not apply to the extent that it restricts the Company or its Representatives from taking or refusing to take any action with respect to a bona fide Competing Proposal (which was not encouraged, solicited, invited, initiated, or continued in contravention of clause 13.1 or 13.2) if:

(a) the Board has determined, after taking advice from its external financial adviser, that the Competing Proposal is, or is reasonably capable of becoming, a Superior

Proposal or would be reasonably likely to constitute a Superior Proposal if it were to be proposed; and

(b) acting in good faith and after having taken advice from its external legal advisers, the Board has determined that it is necessary to respond to such Competing Proposal in order to fulfil the fiduciary duties or statutory obligations of any member of the Board.

13.4 **No due diligence restriction**: Subject to clause 13.5 and clause 13.13, but without limiting clause 13.2, during the Exclusivity Period, the Company must not, and must procure that each of its Representatives does not, directly or indirectly:

(a) make available to any Third Party, or cause or permit any Third Party to receive, any non-public information relating to the Company 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 13.4(a) on its behalf.

13.5 **No due diligence exception**: The restriction in clause 13.4 does not apply in respect of a bona fide Competing Proposal (which was not encouraged, solicited, invited, initiated, or continued in contravention of clause 13.1 or clause 13.2) if all of the following requirements are satisfied:

(a) the Board has determined, after taking advice from its external financial adviser, that the Competing Proposal is, or is reasonably capable of becoming, a Superior Proposal or would be reasonably likely to constitute a Superior Proposal if it were to be proposed;

(b) acting in good faith and after having obtained advice from its external legal advisers, the Board has determined that it is necessary to respond to such Competing Proposal in order to fulfil the fiduciary duties or statutory obligations of any member of the Board;

(c) the Third Party has first entered into a written agreement in favour of the Company restricting the use and disclosure by the Third Party and its affiliates and advisers of the information made available to the Third Party, on terms, the Company, acting in good faith, reasonably believes are not substantially more favourable to the Third Party than those in the confidentiality agreement referred to in clause 20.5; and

(d) to the extent that any information made available to the Third Party is material and has not previously been provided to the Acquirer, the Company provides or makes that information available to the Acquirer at the same time as it is provided to the Third Party or promptly thereafter.

13.6 **General notification obligations**: During the Exclusivity Period, the Company must promptly notify the Acquirer if:

(a) the Company or any of its Representatives receives any Competing Proposal or any offer or request to do any of the things referred to in clause 13.2(a) or clause 13.4(a); or

(b) the Company proposes to take any action in reliance on the exceptions in clause 13.3 or clause 13.5,

and such notification will include the identity of the party making the Competing Proposal and reasonable detail of the terms (including price and the form of the consideration) and conditions of such approach, action or circumstances.

13.7 **Standstill arrangements with other parties**: During the Exclusivity Period, except with the prior written consent of the Acquirer, the Company must not amend or waive the terms of any standstill agreement or arrangement between the Company and any person other than a member of the Acquirer Group or the Mercury Group, other than in circumstances where the Acquirer has failed to provide a Counter Proposal during a Matching Period or the Board determines that the terms and conditions of that Counter Proposal taken as a whole are less favourable to Shareholders than the relevant Competing Proposal. For the avoidance of doubt, the foregoing only relates to standstill agreements and arrangements entered into by the Company prior to the date of this agreement.

13.8 **Matching rights**: If the Company or any of its Representatives receives a Competing Proposal which is, or is reasonably likely to constitute, a Superior Proposal, then:

(a) the Company must as soon as reasonably practicable give the Acquirer a written notice setting out all material terms of the Competing Proposal, including the person who has made the Competing Proposal, the amount and form of consideration to be offered (including the Board's assessment of the value of that Competing Proposal if it is not an all cash proposal), the conditions to which it is subject and the proposed timetable; and

(b) from the time that the Company receives the Competing Proposal until the day that is five Business Days after the Company gives notice to the Acquirer under clause 13.6(a) (the "**Matching Period**"):

(i) the Company must not enter into, or agree to enter into, any binding documentation to give effect to or implement the Competing Proposal;

(ii) the Company must use all reasonable endeavours to ensure that no Non-Conflicted Director makes any public statement recommending the Competing Proposal to Shareholders; and

(iii) the Acquirer may offer to amend the terms of the Scheme and this agreement or make an alternative proposal to the Company or to Shareholders with a view to providing an equivalent or a superior outcome for Shareholders than that offered under the relevant Competing Proposal (including ensuring that the Consideration at least matches that of the Competing Proposal) (being a "**Counter Proposal**").

13.9 **Company response to Counter Proposal**: If, during the Matching Period, the Acquirer makes a Counter Proposal:

(a) the Company must procure that the Board considers the Counter Proposal in good faith and clause 13.8(b)(ii) continues to apply until the Board has done so; and

(b) if the Board determines that the terms and conditions of the Counter Proposal taken as a whole are no less favourable to Shareholders than those in the relevant Competing Proposal, then:

(i) the parties must use their reasonable endeavours to agree and enter into such documentation as is necessary to give effect to and implement the Counter Proposal as soon as reasonably practicable; and

(ii) the Company must use all reasonable endeavours to procure that each Non-Conflicted Director makes a public statement recommending the Counter Proposal to Shareholders.

13.10 **Changes to proposals**: Any material change to a Competing Proposal, including:

(a) any material change to the terms referred to in clause 13.6(a); or

(b) any incomplete or non-binding proposal or expression of interest becoming complete, capable of acceptance or, subject to clause 13.11, binding on the Third Party,

will be taken to constitute a new Competing Proposal in respect of which the Company must separately comply with its obligations under clauses 13.6 and 13.9.

13.11 **No matching**: If the Acquirer fails to provide a Counter Proposal within the Matching Period or the Board otherwise determines that the terms and conditions of the Counter Proposal taken as a whole are less favourable to Shareholders than those in the relevant Competing Proposal, then the Company may enter into a binding implementation agreement or similar binding arrangement in respect of a Competing Proposal, in which case the matching right under this agreement will end in respect of that Competing Proposal (with such Competing Proposal being a Superior Proposal for the purposes of this agreement).

13.12 **Return of confidential information**: If the Company has at any time in the 12 months before the date of this agreement provided any confidential information to a person other than a member of the Acquirer Group or the Mercury Group in connection with a Competing Proposal, the Company must promptly request in writing the immediate return or destruction by that person of such confidential information, and must promptly exercise all rights available to it to ensure compliance with that request. The Company must immediately advise the Acquirer if it becomes aware that any such rights have not been enforced or corresponding obligations of Third Parties have not been complied with. For the avoidance of doubt, this clause does not prevent the Company from disclosing information under clause 13.5 in respect of a Competing Proposal received after the date of this agreement.

13.13 **Normal provision of information**: Nothing in this clause 13 prevents the Company 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; 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.

14. TERMINATION

14.1 **Events affecting Company**: Subject to clauses 11.6 and 14.4, the Acquirer or Mercury may terminate this agreement by giving notice in writing to the Company before 8:00am on the Implementation Date if:

(a) there is a breach of any Company Warranty or any event occurs or circumstance arises that would cause any Company Warranty to be untrue as at 8.00am on the Implementation Date, where the consequences of that breach (other than in respect of a Fundamental Warranty) are material in the context of the Scheme and the Tilt Renewables Group (taken as a whole);

(b) the Company is in breach of any Company Undertaking or any other obligation under this agreement (excluding any obligation in clause 8), where the consequences of that breach are material in the context of the Scheme and the Tilt Renewables Group (taken as a whole); or

(c) a Prescribed Occurrence occurs between the date of this agreement and 8:00am on the Implementation Date.

14.2 **Events affecting Acquirer**: Subject to clauses 11.6 and 14.4, the Company may terminate this agreement by giving notice in writing to the Acquirer before 8:00am on the Implementation Date if:

(a) there is a breach of any Acquirer Warranty or any event occurs or circumstance arises that would cause any Acquirer Warranty to be untrue as at 8:00am on the Implementation Date, where the consequences of that breach are material in the context of the Scheme;

(b) the Acquirer is in breach of any Acquirer Undertaking or any other obligation under this agreement, where the consequences of that breach are material in the context of the Scheme; or

(c) an Insolvency Event occurs in respect of the Acquirer or Mercury Windfarms.

The Company acknowledges that the Acquirer may not be capitalised until it is obligated pursuant to the Scheme Plan to provide the aggregate Consideration to the Company's share registrar and agrees that, in and of itself, this does not give rise to an Insolvency Event.

14.3 **Events affecting Mercury**: Subject to clauses 11.6 and 14.4, the Company may terminate this agreement by giving notice in writing to Mercury before 8:00am on the Implementation Date if:

(a) there is a breach of any Mercury Warranty or any event occurs or circumstance arises that would cause any Mercury Warranty to be untrue as at 8:00am on the Implementation Date, where the consequences of that breach are material in the context of the Scheme;

(b) Mercury is in breach of any Mercury Undertaking or any other obligation under this agreement or the Mercury Deed Poll, where the consequences of that breach are material in the context of the Scheme; or

(c) an Insolvency Event occurs in respect of Mercury.

14.4 **Notice of termination**: A party may only exercise a right of termination in accordance with clause 14.1, clause 14.2 or clause 14.3 if:

(a) the party wishing to terminate has not previously waived any Condition under clause 3.6, or given any other waiver, in each case in respect of the same breach, event or circumstance the subject of termination; and

(b) the party wishing to terminate has given written notice to the other parties setting out the circumstances that it considers permit it to terminate and stating its intention to do so and;

(i) the relevant circumstances have not been remedied within 10 Business Days after the time that the notice is given or any shorter period ending at 5.00pm on the day before the Implementation Date; and

(ii) the party wishing to terminate does so before the earlier to occur of 15 Business Days after the time that the notice is given and 8.00am on the Implementation Date.

14.5 **Recommendation or undertaking termination**:

(a) The Acquirer may terminate this agreement by giving notice in writing to the Company at any time before the Final Orders Date if, at any time before the Final Orders Date, the majority of the Non-Conflicted Directors fail to make the recommendation or give the undertaking referred to in clause 8.1, or change, adversely qualify or withdraw that recommendation or undertaking once made or make any statement inconsistent with that recommendation or that undertaking.

(b) Any party may terminate this agreement by giving notice in writing to the others at any time before the Final Orders Date if:

(i) the Acquirer fails to provide a Counter Proposal within the Matching Period or the Board otherwise determines that the terms and conditions of the Counter Proposal taken as a whole are less favourable to Shareholders than those in the relevant Competing Proposal; and

(ii) the Company has entered into a binding implementation agreement or similar binding arrangement in respect of the Competing Proposal referred to in clause 14.5(b)(i), or a takeover offer (as contemplated by the Competing Proposal referred to in clause 14.5(b)(i)) is made for the Company and has been sent to Shareholders in accordance with the Takeovers Code, which is a Superior Proposal.

(c) The Company may terminate this agreement if the Independent Adviser's Report concludes prior to the Scheme Meeting that the Consideration is not within or above the Independent Adviser's valuation range for the Shares.

14.6 **Scheme Resolution not passed**: This agreement will terminate automatically if, at the Scheme Meeting, the Scheme Resolution is not passed by the requisite majorities in accordance with sections 236A(2)(a) and 236A(4) of the Companies Act provided such failure is not due to Mercury breaching clause 5.5.

14.7 **Court does not grant the Court Orders**: Subject first to complying with clause 7, either party may terminate this agreement by giving notice in writing to the other party if the Court determines not to grant either the Initial Orders or the Final Orders, that determination is not appealed in accordance with clause 7.4 (or is unsuccessfully appealed) and the terminating party has complied in all material respects with its obligations under this agreement.

14.8 **End Date**: Subject to first complying with clause 3.7, either party may terminate this agreement by giving notice in writing to the other if the Scheme has not become Effective by the End Date, provided that the terminating party's (or, if the terminating party is the Acquirer, Mercury's) failure to comply with its obligations under this agreement has not directly and materially contributed to the Scheme not becoming Effective by the End Date.

14.9 **Effect of termination**: If this agreement is terminated under clause 3 or this clause 14, then:

(a) except as provided in clause 14.9(c), all the provisions of this agreement cease to have effect and each party is released from its obligations to further perform this agreement;

(b) each party retains all rights that it has against the other parties in respect of any breach of this agreement occurring before termination; and

(c) the provisions of, and the rights and obligations of each party under, this clause 14 and clauses 11.7, 15, 16, 17, 18, 19 and 20 survive termination of this agreement.

14.10 **No other termination**: Except as expressly set out in this agreement, no party has the right to terminate or cancel this agreement whether before or after the Implementation Date as a result of any matter, information or circumstance, including for misrepresentation, repudiation, anticipatory breach or breach of or in respect of any matter giving rise to or the subject of a claim arising out of or in connection with this agreement (whether arising in tort (including negligence), in contract, statute, by operation of law or otherwise), and sections 36 and 37 of the Contract and Commercial Law Act 2017 will not apply to this agreement.

15. BREAK FEE AND REVERSE BREAK FEE

15.1 **Acknowledgement and agreement**: Each party acknowledges and agrees that:

(a) each other party and its Related Companies have incurred and will continue to incur significant costs and expenses in pursuing the Transaction including:

(i) advisory costs;

(ii) costs of management and directors' time;

(iii) out-of-pocket expenses; and

(iv) opportunity costs of pursing the Transaction or not pursuing alternative transactions or business opportunities;

(b) the costs and expenses actually incurred by each party and its Related Companies are of such a nature that they cannot accurately be ascertained;

(c) the Break Fee and Reverse Break Fee are each a genuine and reasonable estimate of the costs and expenses that have been or will be actually incurred by the relevant party and its Related Companies in pursuing the Transaction;

(d) the parties have negotiated the inclusion of this clause 15 in this agreement and would not have entered into this agreement without it; and

(e) each party has received external independent legal and financial advice in relation to this clause 15 and has concluded that it is reasonable and appropriate for it to agree to payment of the Break Fee or Reverse Break Fee (as applicable) in the circumstances described in clause 15.2 or 15.3 (as applicable) in order to secure each other party's entry into this agreement.

15.2 **Circumstances where Break Fee payable**: Subject to clause 15.5 and clause 15.7, the Company must pay the Break Fee to the Acquirer if this agreement is terminated and:

(a) at any time before this agreement is terminated a Competing Proposal is announced and within 12 months after the date of that announcement, the person making the Competing Proposal, or one or more Associates of that person, completes in all material respects a transaction of the kind referred to in the definition of Competing Proposal; or

(b) the majority of the Non-Conflicted Directors fail to make the recommendation and/or fail to give the undertaking referred to in clauses 8.1 and 16.1 or change, adversely qualify or withdraw that recommendation or undertaking or make any statement inconsistent with that recommendation or that undertaking (including if a majority of Non-Conflicted Directors publicly recommend that Shareholders vote in favour of a Competing Proposal), except where the Independent Adviser issues an Independent Adviser's Report which concludes that the Consideration is not within or above the Independent Adviser's valuation range for the Shares; or

(c) the Acquirer terminates this agreement as permitted under clauses 14.1(a), 14.1(b) or clause 14.1(c) (except for termination for a Prescribed Occurrence that was not under, or within, the control of the Tilt Renewables Group including the Prescribed Occurrence set out in clause 4 of Schedule 1).

15.3 **Circumstances where Reverse Break Fee payable**: Subject to clause 15.7:

(a) the Acquirer must pay the Reverse Break Fee to the Company if this agreement is terminated and:

(i) the Company terminates this agreement as permitted under clause 14.2(a), 14.2(b), or 14.2(c); or

(ii) the Acquirer is in material breach of the Deed Poll; and

(b) Mercury must pay the Reverse Break Fee to the Company if this agreement is terminated and:

(i) the Company terminates this agreement as permitted under clause 14.3(a), 14.3(b), or 14.3(c); or

(ii) Mercury does not comply with its obligation to procure Mercury Windfarms to comply with the Scheme Plan as required by clause 2.6(e) or Mercury Windfarms is in breach of the Scheme Plan; or

(iii) Mercury does not comply with its obligation to enter into the Mercury Deed Poll or to vote in favour of the Scheme Resolution at the Scheme Meeting as required by clause 5.5 or is in material breach of the Mercury Deed Poll.

15.4 **Payment of Break Fee or Reverse Break Fee**: If the Break Fee or Reverse Break Fee becomes payable under this agreement, the Company, the Acquirer or Mercury (as applicable) must pay it to or as directed by the recipient party without withholding or set-off within 15 Business Days after receipt of a written demand for payment from the recipient party.

15.5 **Break Fee or Reverse Break Fee**: Notwithstanding anything else in this agreement:

(a) neither the Break Fee nor the Reverse Break Fee is payable if Implementation occurs; and

(b) each of the Break Fee or the Reverse Break Fee is payable only once.

15.6 **Sole and exclusive remedy**: The Acquirer and Mercury acknowledge and agree that payment of the Break Fee to the Acquirer is the sole and exclusive remedy available to the Acquirer and Mercury in connection with any event or occurrence referred to in clause 15.2 (*Circumstances where Break Fee payable*) and the Company is not liable for any Loss arising in connection with any such event or occurrence other than for any liability that it may have to pay the Acquirer the Break Fee under this clause 15. Nothing in this clause limits the Company's liability for fraud.

15.7 **Amendments to Break Fee or Reverse Break Fee arrangements**: If any of the following occurs:

(a) the Takeovers Panel indicates to any party in writing that it requires any modification to the amount of the Break Fee or Reverse Break Fee or the circumstances in which either is to be paid (the "**Break Fee Arrangements**") as a condition of not opposing the Scheme; or

(b) the Court requires any modification to the Break Fee Arrangements as a condition of making orders convening the Scheme Meeting,

then the parties must amend this clause 15 to the extent required to give effect to the requirements of the Court or the Takeovers Panel, as the case may be, and in the circumstances referred to in clause 15.7(b) must give any required undertakings.

15.8 **Specific performance and other rights**:

(a) Nothing in this agreement precludes the Company from suing the Acquirer and/or Mercury for specific performance or from otherwise terminating this agreement in accordance with its terms and/or suing the Acquirer and/or Mercury for damages (the amount of which it is acknowledged will be reduced by the amount of any Reverse Break Fee actually paid to the Company by the Acquirer or Mercury in accordance with this agreement).

(b) The Acquirer and Mercury acknowledge and agree that if the Acquirer or Mercury breaches this agreement, Loss may be suffered or incurred by Shareholders and, accordingly, the Acquirer and Mercury each acknowledges and agrees that the agreements and covenants that it provides in this agreement, are promises which confer, and are intended to confer, a benefit upon the Shareholders and, accordingly, the provisions of subpart 1 of part 2 of the Contract and Commercial Law Act 2017 apply to each of them. Nothing in the preceding sentence will prevent the Company, Mercury and the Acquirer amending this agreement without the consent of the Shareholders as contemplated by clause 20.1.

15.9 **Limitation of liability**: Notwithstanding any other provision of this agreement:

(a) the maximum aggregate liability of the Company to the Acquirer and Mercury under or in connection with this agreement, howsoever arising and including in respect of any breach of this agreement, will be the amount of the Break Fee;

(b) a payment by the Company of the Break Fee represents the sole and absolute liability of the Company to the Acquirer and Mercury under or in connection with this agreement and no further damages, fees, expenses or reimbursements of any kind will be payable by the Company to the Acquirer or Mercury in connection with this agreement; and

(c) the amount of the Break Fee payable to the Acquirer under this clause 15 shall be reduced by the amount of any loss or damage recovered by the Acquirer or Mercury in relation to a breach of any other clause of this agreement,

except that nothing in this clause limits the Company's liability for fraud.

15.10 **Trigger Disputes:** If there is a Trigger Dispute between the parties which is not resolved within two Business Days of one party notifying the others:

(a) the Trigger Dispute must be referred to the Expert;

(b) the parties must instruct the Expert to determine the Trigger Dispute within 10 Business Days;

(c) in determining the dispute, the Expert must act as an expert and not an arbitrator;

(d) the determination of the Expert will, in the absence of manifest error, be final and binding on the parties; and

(e) the Expert's fees will be borne equally by the parties.

16. ANNOUNCEMENTS

16.1 **Initial announcements**: Immediately following execution of this agreement the Company must issue an announcement in a form agreed with the Acquirer and including a statement that each Non-Conflicted Director:

(a) recommends that Shareholders vote in favour of the Scheme; and

(b) undertakes to vote, or procure the voting of, all Shares held or controlled by him or her in favour of the Scheme,

in each case in the absence of a Superior Proposal and subject to the Independent Adviser's Report concluding that the Consideration is within or above the Independent Adviser's valuation range for the Shares. For the avoidance of doubt, the parties agree that this agreement will be attached to any announcement made pursuant to this clause 16.1.

16.2 **Other announcements**: Each party must not make, and must procure that its Related Companies or (in respect of the Company) its Subsidiaries and their respective Representatives do not make, any public announcement concerning the Scheme or the subject matter of this agreement other than:

(a) the announcement referred to in clause 16.1;

(b) with the written consent of the other parties, which must not be unreasonably withheld, conditioned or delayed;

(c) where disclosure is necessary to obtain the benefits of, or to fulfil obligations under, this agreement; or

(d) if required by law, any court of competent jurisdiction, any Government Agency or the NZX Listing Rules or the ASX Listing Rules, but if any party is so required to make any announcement, it must promptly notify the other parties, where practicable and lawful to do so, before the announcement is made and must co-operate with the other parties regarding the timing and content of such announcement,

provided that the obligations in this clause will not prevent the Company from responding to media and other stakeholders where not inconsistent with announcements that are permitted to be made in accordance with the terms of this agreement, including this clause 16.2.

17. PAYMENTS

17.1 **Manner of payments**: Unless otherwise expressly stated (or as otherwise agreed in the case of a given payment), each payment to be made under this agreement must be made in New Zealand dollars by transfer of the relevant amount into the relevant account on or before the date on which the payment is due and in immediately available funds. The relevant account for a given payment is the account that the party due to receive the payment specifies, not less than 10 Business Days before the date on which payment is due, by giving notice to the party due to make the payment.

17.2 **Default interest**: If a party defaults in making any payment when due of any sum payable under this agreement, it must pay interest on that sum from (and including) the date on which payment is due until (but excluding) the date of actual payment (after as well as before judgment) on that sum at an annual rate equal to the Bill Rate plus 6%, which interest accrues from day to day and must be compounded monthly. The party making such payment is permitted to withhold Tax required to be withheld by law without gross-up.

18. GST

18.1 **Interpretation**: Words and expressions that are defined in the GST Act have the same meaning when used in this clause 18. For the purposes of this clause 18, references to GST chargeable and input tax credit entitlements of any entity include GST chargeable against, and the input tax credit entitlements of, the representative member of the GST group of which the entity is a member.

18.2 **Consideration exclusive of GST**: For the avoidance of doubt, the parties agree that the supply of Scheme Shares pursuant to this agreement is an exempt supply of a financial service and therefore not subject to GST. All other stated amounts payable or consideration to be provided under or in connection with this agreement do not include GST ("**GST Exclusive Consideration**").

18.3 **Payment of GST**: If GST is chargeable on any supply made under or in connection with this agreement the recipient must pay to the party that has made or will make the supply (the "**Supplier**"), in addition to the GST Exclusive Consideration, an additional amount equal to the GST chargeable on that supply (the "**Additional Amount**"). The recipient must pay the Additional Amount without set-off, demand or deduction, at the same time and in the same manner as any GST Exclusive Consideration for that supply if required to be paid, except that the recipient is not required:

(a) to pay the Additional Amount unless and until the Supplier has issued a tax invoice under clause 18.4; or

(b) to pay any GST Default Amounts included in the Additional Amount if those GST Default Amounts result from the Supplier failing to comply with its obligations under the GST Act.

18.4 **Tax invoice**: For any supply to which clause 18.3 applies, the Supplier must issue a tax invoice which complies with the GST Act.

18.5 **Adjustments**: If an event referred to in section 25(1) of the GST Act occurs in relation to a taxable supply made under or in connection with this agreement, the GST payable on that supply will be recalculated to reflect that adjustment, a debit note or credit note will be issued as required by the GST Act and an appropriate payment will be made between the parties.

18.6 **Input tax credits**: Notwithstanding any other provision of this agreement, if an amount payable under or in connection with this agreement is calculated by reference to any loss, damage, cost, expense, charges or other liability incurred or suffered by a party, then the amount payable must be reduced by the amount of any input tax credit or other deduction from output tax to which that entity is entitled in respect of the acquisition of any supply to which the loss, damage, costs, expense, charge or other liability relates. For the avoidance of doubt, this clause 18.6 does not apply to adjust the Break Fee or the Reverse Break Fee.

19. NOTICES

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

(a) be in writing; and

(b) be delivered in accordance with clause 19.2,

and a Notice by the Acquirer to the Company and vice versa must also be sent to Mercury.

19.2 **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.

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

(a) specified in clause 19.1(a) is deemed received at the time of delivery;

(b) specified in clause 19.2(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.

19.4 **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 others by Notice given in accordance with this clause.

Acquirer:

Attention:	Geoff Dutaillis
Physical address:	Powering Australian Renewables, Level 10, 70 Phillip Street, Sydney NSW 2000, Australia
Email address:	gdutaillis@parf.com.au

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

Attention:	Andrew Harmos / Nathanael Starrenburg, Harmos Horton Lusk
Physical address:	Level 33, Vero Centre, 48 Shortland Street, Auckland 1010, New Zealand
Email address:	andrew.harmos@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 Wallis, Chapman Tripp
Physical address: Level 34, PwC Centre, 15 Customs Street West, Auckland 1140, New Zealand
Email address: roger.wallis@chapmantripp.com

Company:

Attention: Steve Symons
Physical address: Tilt Renewables Limited, Level 23, 535 Bourke St Melbourne 3000
Email address: steve.symons@tiltrenewables.com

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

Attention: Joe Windmeyer, Russell McVeagh
Physical address: Level 30, Vero Centre, 48 Shortland Street, Auckland, New Zealand
Email address: joe.windmeyer@russellmcveagh.com

20. GENERAL

20.1 **Amendments etc**: No:

(a) amendment to this agreement;

(b) agreement between the parties for the purpose of, or referred to in, this agreement; or

(c) request, consent, or approval for the purpose of, or referred to in, this agreement,

is effective unless it is in writing and signed (if subclauses (a) or (b) apply) by all parties or (if subclause (c) applies) the party making the request or required to give the consent or approval.

20.2 **Costs**: Subject to clauses 6.2(b), 7.4(b)(ii) and 15, each party will pay its own costs in respect of entry into and negotiation of this agreement.

20.3 **Liability for expenses**: Subject to clause 20.2, the Acquirer must pay for all stamp duty payable on this agreement or any instrument or transaction contemplated in or necessary to give effect to this agreement.

20.4 **Counterparts**: This agreement may be executed on the basis of an exchange of email or scanned copies of this agreement and execution of this agreement by such means is to be a valid and sufficient execution. If this agreement consists of a number of signed counterparts, each is an original and all of the counterparts together constitute the same document.

20.5 **Entire agreement**: This agreement and the confidentiality agreement dated 4 February 2021 between the Company and PARF Company 2 Pty Ltd and the confidentiality agreement dated 5 February 2021 between the Company and Mercury constitute the entire agreement

between the parties relating to the subject matter of this agreement and supersede and cancel any previous agreement, understanding, or arrangement, whether written or oral, relating to such subject matter.

20.6 **Further assurance**: Each party will make all applications, execute all documents and do or procure all other acts and things reasonably required to implement and to carry out its obligations under, and the intention of, this agreement.

20.7 **Assignment**: No party will directly or indirectly assign, transfer or otherwise dispose of any of its rights or interests in, or any of its obligations or liabilities under or in connection with this agreement, except with the prior written consent of the other parties, which consent may be withheld in the absolute discretion of each other party.

20.8 **Rights and powers cumulative**: The rights, powers and remedies provided in this agreement are cumulative with, and are not exclusive of, any rights, powers or remedies at law or in equity unless specifically stated otherwise.

20.9 **Severance**: If any provision of this agreement is or becomes unenforceable, illegal or invalid for any reason it will be deemed to be severed from this agreement without affecting the validity of the remainder of this agreement and will not affect the enforceability, legality, validity or application of any other provision of this agreement.

20.10 **No merger**: The provisions of this agreement, and anything done under, or in connection with, this agreement will not operate as a merger of any of the rights, powers or remedies of any party under, or in connection with, this agreement or at law, and those rights, powers and remedies will survive and continue in full force and effect to the extent that they are unfulfilled.

20.11 **Governing law**: This agreement is governed by the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand in respect of any dispute or proceeding arising out of this agreement. The parties irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

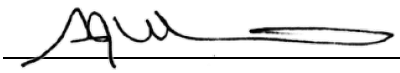
20.12 **Service of process**: The Acquirer appoints Andrew Harmos and Nathanael Starrenburg of Harmos Horton Lusk as its agent in New Zealand for service of process and other documents in any legal action or proceedings arising out of or in connection with this agreement and will ensure that at all times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

[Signature page follows]

SIGNATURES

TILT RENEWABLES LIMITED by:

Signature of director



Signature of director

Bruce James Harker

Name of director

Anne June Urlwin

Name of director

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

Signature of director

Signature of director/secretary

CHERYL BART

Name of director (print)

ANKIT MEHTA

Name of director/secretary (print)

MERCURY NZ LIMITED by:

Signature of duly authorised signatory

WILLIAM MEEK

Name of signatory

in the presence of:

Name: HOWARD THOMAS

Occupation: SOLICITOR

Address: AUCKLAND

SCHEDULE 1

Prescribed Occurrences

1. The Company or another member of the Tilt Renewables Group authorises, declares, pays, or makes any distributions (within the meaning of the Companies Act) of any nature, other than as contemplated by this agreement or any distribution from wholly-owned Subsidiaries of the Company to the Company or to other wholly-owned Subsidiaries of the Company.

2. Any Tilt Renewables Group member issuing, agreeing to issue, or granting an option or right to subscribe for, shares, convertible securities, other securities or financial products of any nature (including warrants, options, phantom or cash settled rights over shares, convertible notes, entitlements, rights or interests in any ordinary shares) other than the issuing of shares:

    a. by a direct wholly-owned Subsidiary of the Company to the Company;

    b. by an indirect wholly-owned Subsidiary of the Company to that Subsidiary's holding company,

    or the issue, or transfer, of Shares as permitted under clause 9.5.

3. The Company:

    a. altering the rights, privileges, benefits, entitlements or restrictions attaching to any securities (including the Shares) or other securities or financial products (if any) (except as permitted under clause 9.5);

    b. converting all or any of the Shares into a larger or smaller number; or

    c. buying back or redeeming (or agreeing to buy back or redeem) any Shares.

4. An action, claim, litigation, arbitration, prosecution or investigation (including by a Government Agency) is notified or commenced against any member of the Tilt Renewables Group that is material to the Tilt Renewables Group, taken as a whole, or in respect of the Scheme that has a material adverse effect on the Transaction.

5. Any member of the Tilt Renewables Group:

    a. makes or incurs (or agrees to make or incur) any payments or commitments outside of the ordinary course of business which are material to the Tilt Renewables Group taken as a whole except as permitted by clause 9.4;

    b. disposes of, purchases, transfers, leases, grants or permits any Encumbrance over, grants an option or legal or equitable interest in respect of, or otherwise deals with a legal or equitable interest in, an asset, business, operation, property or Subsidiary (or agrees, including agreeing to vary any agreement, to do any of these things), that is material to the Tilt Renewables Group taken as a whole (which, for clarity, will not include any (i) sale, disposal of assets or winding up in relation to any business, division, Subsidiary or other interest of the Tilt Renewables Group having a value of less than A$10,000,000, or (ii) any accounting adjustment that results in a notional disposal of assets, or (iii) action permitted by clause 9.4), other than as fairly disclosed

in the Due Diligence Materials or by the Company through the NZX markets announcements platform before the date of this agreement; or

c. enters into, terminates or materially varies, any major transactions (as defined in section 129(2) of the Companies Act).

6. The Company breaches any of the provisions in clauses 9.2 or 9.3, the effect of which is material to the Tilt Renewables Group taken as a whole.

7. Any alteration to the constitutional documents of any member of the Tilt Renewables Group, or to any terms of the Restricted Share Scheme or the Performance Rights Plan (except as specifically provided for in this agreement or required to comply with law or the NZX Listing Rules), that is material in the context of the Scheme.

8. An Insolvency Event occurs in respect of a material member of the Tilt Renewables Group.

9. A member of the Tilt Renewables Group is, or will be, under an obligation to make a payment or provide consideration to any of its employees or directors in the event of any member of the Tilt Renewables Group becoming a Subsidiary of the Acquirer or Mercury, other than as fairly disclosed in the Due Diligence Materials.

10. The Shares cease to be quoted on the NZX and ASX (other than in connection with the implementation of the Scheme).

11. A member of the Tilt Renewables Group increases the remuneration of (including with regard to any superannuation, benefits, incentives or bonuses), or materially varies the terms of employment of, or terminates the employment of, any of its directors, officers or senior employees, other than within the exceptions provided in clauses 9.3 to 9.5 or as fairly disclosed in the Due Diligence Materials or on the basis of retirement by rotation under the NZX Listing Rules.

12. A member of the Tilt Renewables Group accelerates the rights of any of its directors, officers or employees to benefits of any kind, other than as permitted under clause 9.5.

13. A member of the Tilt Renewables Group pays a director, officer or senior employee a termination payment, other than as provided for in an existing employment contract (or equivalent) in place as at the date of this agreement.

14. The board or shareholders of a Tilt Renewables Group member pass a resolution to do or authorise the doing of any act or matter referred to in any of paragraphs 1 to 13.

SCHEDULE 2

Company Warranties and Undertakings

Part 1: Company Warranties

Fundamental Warranties

1. **Incorporation**: The Company is a company duly incorporated under the laws of New Zealand.

2. **Capacity**: The Company has the power to execute and to perform its obligations under this agreement and the Scheme, and (subject to obtaining the approvals contemplated by clause 3.1 of this agreement) has taken all necessary corporate action to authorise such execution and the performance of such obligations.

3. **Binding effect**: The obligations of the Company under this agreement constitute legal, valid and binding obligations enforceable subject to and in accordance with their terms.

4. **Compliance**: The execution and performance of this agreement and the Scheme:

   a. complies with the Company's constitution; and

   b. does not constitute a breach of any law or other obligation by which the Company is bound and which would prevent it from entering into and performing its obligations under this agreement or the Scheme.

5. **Share capital**: The entire share capital of the Company as at the date of this agreement is 376,833,884 fully paid ordinary shares and will not exceed 379,028,729 fully paid ordinary shares as at the Record Date. The corporate structure diagram provided in the Due Diligence Material lists all members of the Tilt Renewables Group and the details included are true and accurate in all material respects.

6. **Options etc**: With the exception of the Performance Rights, the Construction Bonus Rights and the Restricted Shares (to be dealt with in accordance with clause 9.5 of this agreement) and the ordinary shares on issue, there are no other shares, options or other securities (including equity securities, debt securities or convertible securities) or other instruments which are convertible into securities in the Tilt Renewables Group in favour of any person, nor has any member of the Tilt Renewables Group offered or agreed to issue or grant, and no person has any right to call for the issue or grant of, any such shares, options or other securities or other instruments.

Disclosure warranties

7. **Disclosure**: The Company has filed with the Registrar, NZX and ASX all documents required to be filed with the Registrar, NZX or ASX including pursuant to NZX Listing Rule 3.1.1 (the "**Disclosure Documents**") and is not in breach of its continuous and periodic disclosure obligations under the Companies Act, the FMCA, the NZX Listing Rules, the ASX Listing Rules and (as at the date of this agreement) is not relying on the exception in NZX Listing Rule 3.1.2 to withhold any information from public disclosure. The Disclosure Documents do not contain any untrue statement of a material fact or omit to state a material fact required to be stated in it, except to the extent that such statements have been modified or superseded by a later Disclosure Document.

8. **Due Diligence Material**: The Due Diligence Material has been prepared and provided in good faith and, as far as the Company is aware, no information has been included in the Due Diligence Material that was, when given, materially false or misleading, including by omission.

General warranties

9. **Authorisations**: As far as the Company is aware as at the date of this agreement, each member of the Tilt Renewables Group has complied in all material respects with all New Zealand, Australian and foreign laws and regulations applicable to it, has all material licences, authorisations, consents and approvals (or similar) necessary for it to conduct the Business as presently being conducted and, so far as the Company is aware, no member of the Tilt Renewables Group is under investigation with respect to the violation of any laws or applicable licences, authorisations, consents and approvals (or similar).

10. **Financing**: As at the date of this agreement, the Tilt Renewables Group does not have any outstanding debt financing that is not reflected in either its financial statements and notes thereto for the year ended 31 March 2020 and since 31 March 2020 no member of the Tilt Renewables Group has engaged in debt financing of a type which is not required to be shown or reflected in its financial statements or notes thereto.

Part 2: Company Undertakings

1. The Company will ensure that the Company Information:

   a. is prepared in good faith and on the understanding that each of the AM Indemnified Persons will rely on that information for the purposes of considering and approving the Acquirer Information and Mercury Information in the Scheme Booklet;

   b. complies with all applicable laws and the NZX Listing Rules; and

   c. in the form and context in which it appears in the Scheme Booklet, is true and correct in all material respects and is not misleading or deceptive, including by omission, as at the date the Scheme Booklet is sent to Shareholders.

2. The Company will provide to the Acquirer all new material information of which it becomes aware after the Scheme Booklet has been sent to Shareholders and before the date of the Scheme Meeting which is necessary to ensure that the Company Information, in the form and context in which it appears in the version of the Scheme Booklet sent to Shareholders, is not misleading or deceptive, including by omission. This clause is not intended to limit any continuous disclosure obligations.

3. All information provided by or on behalf of the Company to the Independent Adviser will be provided in good faith and on the understanding that the Independent Adviser will rely upon that information for the purpose of preparing the Independent Adviser's Report for inclusion in the Scheme Booklet, will be true and correct in all material respects and will not be misleading or deceptive, including by omission.

SCHEDULE 3

Acquirer Warranties and Undertakings and Mercury Warranties and Undertakings

Part 1: Acquirer Warranties

1. **Incorporation**: The Acquirer is a company duly incorporated under the laws of Australia.

2. **Capacity**: The Acquirer has the power to execute and to perform its obligations under this agreement, the Scheme and the Deed Poll, and has taken all necessary corporate action to authorise such execution and the performance of such obligations.

3. **Binding effect**: The obligations of the Acquirer under this agreement, and under the Deed Poll once executed, constitute legal, valid and binding obligations enforceable subject to and in accordance with their terms.

4. **Compliance**: The execution and performance of this agreement, the Scheme and the Deed Poll:

    a. complies with the Acquirer's constitution or other constituent documents; and

    b. does not constitute a breach of any law or other obligation by which the Acquirer is bound and which would prevent it from entering into and performing its obligations under this agreement, the Scheme or the Deed Poll.

5. **Approvals**: To the Acquirer's knowledge, no consents, approvals or other acts by a Government Agency are necessary to effect Implementation other than those identified in clause 3.

6. **Company Warranties**: To the Acquirer's knowledge, the Company is not in breach of any Company Warranty on the date of this agreement.

7. **Insolvency**: There has not occurred an Insolvency Event in relation to the Acquirer or any holding company of the Acquirer.

8. **Funding**: The Acquirer will at Implementation have available to it on an unconditional basis sufficient cash reserves (whether from internal cash reserves or external funding arrangements or a combination of both) to satisfy the Acquirer's obligations to pay the Scheme Consideration in accordance with its obligations under this agreement, the Scheme and the Deed Poll.

Part 2: Acquirer Undertakings

1. The Acquirer will ensure that the Acquirer Information:

    a. is prepared in good faith and on the understanding that each of the Company Indemnified Persons will rely on that information to prepare the Scheme Booklet and to propose and implement the Scheme in accordance with the Companies Act;

    b. complies with all applicable laws; and

c. in the form and context in which it appears in the Scheme Booklet, is true and correct in all material respects and is not misleading or deceptive, including by omission, as at the date the Scheme Booklet is sent to Shareholders.

2. The Acquirer will provide to the Company all new material information of which it becomes aware after the Scheme Booklet has been sent to Shareholders and before the date of the Scheme Meeting which is necessary to ensure that the Acquirer Information, in the form and context in which that information appears in the version of the Scheme Booklet sent to Shareholders, is not misleading or deceptive in any material respect, including by omission.

3. All information provided by or on behalf of the Acquirer to the Independent Adviser will be provided in good faith and on the understanding that the Independent Adviser will rely upon that information for the purpose of preparing the Independent Adviser's Report for inclusion in the Scheme Booklet, will be true and correct in all material respects and will not be misleading or deceptive, including by omission.

4. Subject to the Companies Act and the Scheme being Implemented, the Acquirer undertakes in favour of the Company and each Company Indemnified Person that it will:

a. subject to clause 5 below, for a period of 7 years from the Implementation Date, ensure that the constitutions of the Company and each Tilt Renewables Group member (other than the NZ Subsidiaries) continue to have equivalent obligations to those currently contained in their constitutions at the date of this agreement that provide for each company to indemnify each of its current and former directors and officers against any liability (excluding for fraud or wilful misconduct) incurred by that person in his or her capacity as a director or officer of the company to any person other than a member of the Tilt Renewables Group (other than the NZ Subsidiaries); and

b. procure that the Company and each Tilt Renewables Group member (other than the NZ Subsidiaries) complies with any provisions in deeds of indemnity, access and insurance (including the D&O Run-off Policy) made by them in favour of their respective directors and officers from time to time.

5. The undertakings contained in clause 4 above are given until the earlier of the end of the relevant period specified in that clause or the relevant Tilt Renewables Group member ceasing to be part of the Acquirer Group.

Part 3: Mercury Warranties

1. **Incorporation**: Mercury is a company duly incorporated under the laws of New Zealand.

2. **Capacity**: Mercury has the power to execute and to perform its obligations under this agreement, the Scheme and the Mercury Deed Poll, and has taken all necessary corporate action to authorise such execution and the performance of such obligations.

3. **Binding effect**: The obligations of Mercury under this agreement, and under the Mercury Deed Poll once executed, constitute legal, valid and binding obligations enforceable subject to and in accordance with their terms.

4. **Compliance**: The execution and performance of this agreement, the Scheme and the Mercury Deed Poll:

a. complies with Mercury's constitution or other constituent documents; and

b. does not constitute a breach of any law or other obligation by which Mercury is bound and which would prevent it from entering into and performing its obligations under this agreement, the Scheme or the Mercury Deed Poll.

5. **Approvals**: To Mercury's knowledge, no consents, approvals or other acts by a Government Agency are necessary to effect Implementation other than those identified in clause 3.

6. **Company Warranties**: To Mercury's knowledge, the Company is not in breach of any Company Warranty on the date of this agreement.

Part 4: Mercury Undertakings

1. Mercury will ensure that the Mercury Information:

   a. is prepared in good faith and on the understanding that each of the Company Indemnified Persons will rely on that information to prepare the Scheme Booklet and to propose and implement the Scheme in accordance with the Companies Act;

   b. complies with all applicable laws; and

   c. in the form and context in which it appears in the Scheme Booklet, is true and correct in all material respects and is not misleading or deceptive, including by omission, as at the date the Scheme Booklet is sent to Shareholders.

2. Mercury will provide to the Company all new material information of which it becomes aware after the Scheme Booklet has been sent to Shareholders and before the date of the Scheme Meeting which is necessary to ensure that the Mercury Information, in the form and context in which that information appears in the version of the Scheme Booklet sent to Shareholders, is not misleading or deceptive in any material respect, including by omission.

3. All information provided by or on behalf of Mercury to the Independent Adviser will be provided in good faith and on the understanding that the Independent Adviser will rely upon that information for the purpose of preparing the Independent Adviser's Report for inclusion in the Scheme Booklet, will be true and correct in all material respects and will not be misleading or deceptive, including by omission.

4. Subject to the Companies Act and the Scheme being Implemented, Mercury undertakes in favour of the Company and each Company Indemnified Person that it will:

   a. subject to clause 5 below, for a period of 7 years from the Implementation Date, ensure that the constitutions of each NZ Subsidiary continue to have equivalent obligations to those currently contained in their constitutions at the date of this agreement that provide for each company to indemnify each of its current and former directors and officers against any liability (excluding for fraud or wilful misconduct) incurred by that person in his or her capacity as a director or officer of the company to any person other than a NZ Subsidiary; and

   b. procure that each NZ Subsidiary complies with any provisions in deeds of indemnity, access and insurance (including the D&O Run-off Policy) made by them in favour of their respective directors and officers from time to time.

5. The undertakings contained in clause 4 above are given until the earlier of the end of the relevant period specified in that clause or the relevant NZ Subsidiary ceasing to be part of the Mercury Group.

SCHEDULE 4

Timetable

	EVENT	INDICATIVE DATE (BUSINESS DAYS)
1	Announcement	Upon signing this agreement
2	Submission of OIO Application and FIRB Application	Within 2 Business Days of Item 1
3	Draft Scheme Booklet provided to the Acquirer	Within 18 Business Days of Item 1
4	Comments on the Scheme Booklet provided by the Acquirer to the Company for review	Within 5 Business Days of Item 3
5	Final draft Scheme Booklet provided to the Acquirer	Within 4 Business Days of Item 4
6	Scheme Booklet provided to the Takeovers Panel for review and provision of "no objection" indication letter from the Takeovers Panel	Within 3 Business Days of Item 5
7	Scheme Booklet (including Independent Adviser's Report) approved by Takeovers Panel	Within 12 Business Days of Item 6
8	Application for Initial Orders filed	Within 3 Business Days of Item 7
9	First Court Date	Within 10 Business Days of the Initial Orders filing
10	Sealed Initial Orders and a Minute of the Court from the First Court Date sent to the Takeovers Panel (together with any updated material) with application for “no objection” letter	Within 3 Business Days of Initial Orders
11	Scheme Booklet sent to Shareholders (including Independent Adviser's Report)	Within 5 Business Days of the Initial Orders
12	Scheme Meeting	12 Business Days following Item 11
13	Documents filed in respect of Second Court Date	Within 7 Business Days of Scheme Meeting
14	Second Court Date (if required)	Within 10 Business Days of Item 13
15	Final Orders Date	On the Second Court Date
16	Suspend trading on NZX and ASX (assuming OIO Condition and FIRB Condition satisfied)	On the second Business Day after the Final Orders Date (assuming OIO Condition and FIRB Condition are satisfied)
17	Record Date (assuming OIO Condition and FIRB Condition satisfied)	On the fifth Business Day after the Final Orders Date (assuming OIO Condition and FIRB Condition are satisfied)

	EVENT	INDICATIVE DATE (BUSINESS DAYS)
18	Implementation Date (assuming OIO Condition and FIRB Condition satisfied)	On the second Business Day after the Record Date
19	De-listing from NZX	Close of trading on the Implementation Date
20	De-listing from ASX	Close of trading on the first Business Day after the Implementation Date

SCHEDULE 5

Scheme Plan

Attached.

SCHEME PLAN

SCHEME OF ARRANGEMENT PURSUANT TO PART 15 OF THE COMPANIES ACT 1993

PARTIES

TILT RENEWABLES LIMITED ("**Company**")

PISA OBLIGOR CO 1 PTY LTD ("**Acquirer**")

MERCURY NZ LIMITED ("**Mercury**")

MERCURY SPV 2021 LIMITED ("**Mercury Windfarms**")

Each person who is registered in the Register as the holder of one or more Scheme Shares (together the "**Scheme Shareholders**")

1. DEFINITIONS AND INTERPRETATION

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

"**Acquirer Payment Obligation**" means an amount equal to the NZ Transferring Assets Purchase Price that the Acquirer agrees to pay to Mercury in consideration of Mercury agreeing to provide the Loan Note to the Acquirer.

"**ASX**" means ASX Limited or the Australian Securities Exchange, as the context requires.

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

"**Companies Act**" means the Companies Act 1993.

"**Computershare**" means Computershare Investor Services Limited.

"**Conditions**" means:

(a) the conditions set out in clause 3.1 of the Scheme Implementation Agreement; and

(b) such other conditions made or required by the Court under section 236(1) of the Companies Act and approved in writing by the Company, Mercury and the Acquirer in accordance with clause 3.2 of the Scheme Implementation Agreement.

"**Consideration**" means $7.80 in respect of each Scheme Share held by a Scheme Shareholder, as adjusted in accordance with the Scheme Implementation Agreement which, except as contemplated by clause 4.2, is payable in cash.

"**Court**" means the High Court of New Zealand, Auckland Registry.

"**Deed Poll**" means the deed poll entered into, or to be entered into, by the Acquirer in favour of the Scheme Shareholders.

"**Encumbrance**" means:

(a) any security interest within the meaning of section 17(1)(a) of the Personal Property Securities Act 1999 or section 12(1) of the Personal Property Securities Act 2009 (Cth) and any option, right to acquire, right of pre-emption, assignment by way of security, trust arrangement for the purpose of providing security, retention arrangement or other security interest of any kind (other than any reservation of title by suppliers in the ordinary course of business); and

(b) any agreement to create any of the foregoing.

"**End Date**" has the meaning given to that term in the Scheme Implementation Agreement

"**Final Court Orders**" means, on application of the Company, orders that the Scheme will be binding on the Company, the Acquirer, Mercury, Mercury Windfarms, the Scheme Shareholders and/or such other persons or class of persons as the Court may specify, in accordance with section 236(1) (and section 237, if applicable) of the Companies Act.

"**Final Orders Date**" means the day on which the Final Court Orders are sealed by the Court.

"**FIRB**" means the Foreign Investment Review Board.

"**Funds**" has the meaning given to that term in clause 3.1.

"**Government Agency**" means any government, any department, officer or minister of any government and any governmental, semi-governmental, regulatory, administrative, fiscal, judicial or quasi-judicial agency, authority, board, commission, tribunal or entity, in any jurisdiction, and includes (for the avoidance of doubt) the Overseas Investment Office, the Takeovers Panel, the Financial Markets Authority and FIRB.

"**Implementation Date**" means the day on which the Scheme is to be implemented, being the date two Business Days after the Record Date, or such other date as the Acquirer and the Company agree in writing, and "**Implementation**" correspondingly means the time at which implementation commences with the first step under clause 4.1(a).

"**Loan Note**" means Mercury's obligation to advance the Acquirer an amount equal to the NZ Transferring Assets Purchase Price.

"**Mercury Consideration**" means the Consideration multiplied by the number of Scheme Shares held by Mercury.

"**NZ Transferring Assets**" means all fully paid ordinary shares in:

(i) Tilt Renewables Insurance Limited (company number 8127307);

(ii) Tararua Wind Power Limited (company number 475852); and

(iii) Waverley Wind Farm (NZ) Holding Limited (company number 7580296), which owns all fully paid ordinary shares in Waverley Wind Farm Limited (company number 6920094).

"**NZ Transferring Assets Purchase Price**" means the sum of $**[●]**, representing the equity value of the NZ Transferring Assets agreed between Mercury and the Acquirer, which, subject to completion of all the steps outlined in clause 4.1 on Implementation, as provided in this Scheme Plan, Mercury and the Acquirer will procure to be satisfied on the Implementation Date

in accordance with clause 4, subject to such purchase price adjustments as are determined by Mercury, the Acquirer and the Company following Implementation.

"**NZX**" means NZX Limited and, where the context requires, the main board financial market that it operates.

"**NZX Listing Rules**" means the NZX Main Board Listing Rules.

"**Record Date**" has the meaning given to that term in the Scheme Implementation Agreement.

"**Register**" means the Share register maintained by Computershare on behalf of the Company.

"**Registered Address**" means, in relation to a Shareholder, the address shown in the Register as at the Record Date.

"**Scheme**" means this scheme of arrangement, subject to any alterations or conditions made or required by the Court under Part 15 of the Companies Act and approved by the Acquirer, Mercury and the Company in writing.

"**Scheme Implementation Agreement**" means the scheme implementation agreement dated 14 March 2021 between the Acquirer, Mercury and the Company.

"**Scheme Meeting**" means the special meeting of Shareholders ordered by the Court to be convened pursuant to section 236(2)(b) and 236A(2) of the Companies Act in respect of the Scheme (and including any meeting convened following any adjournment or postponement of that meeting).

"**Scheme Shares**" means all of the Shares on issue on the Record Date.

"**Share**" means a fully paid ordinary share in the Company.

"**Shareholder**" means a person who is registered in the Register as the holder of one or more Shares from time to time.

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

"**Trading Halt Date**" means the date which is two Business Days after the Final Orders Date or such other date as the Acquirer and the Company agree in writing.

"**Trust Account**" has the meaning given to that term in clause 3.1.

"**Unconditional**" means all of the Conditions having been satisfied or, if capable of waiver in accordance with the Scheme Implementation Agreement, waived.

1.1 **Interpretation**: In this Scheme Plan, unless the context otherwise requires:

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

(b) the singular includes the plural and vice versa;

(c) words of any gender include all genders;

(d) a reference to a clause, is a reference to a clause of this Scheme Plan;

(e) 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;

(f) reference to any document (including this Scheme Plan) includes reference to that document (and, where applicable, any of its provisions) as amended, novated, supplemented, or replaced from time to time;

(g) reference to a party, person or entity includes:

(i) an individual, partnership, firm, company, body corporate, corporation, association, trust, estate, state, government or any agency thereof, municipal or local authority and any other entity, whether incorporated or not (in each case whether or not having a separate legal personality); and

(ii) an employee, sub-contractor, agent, successor, permitted assign, executor, administrator and other representative of such party, person or entity;

(h) "written" and "in writing" include any means of reproducing words, figures or symbols in a tangible and visible form;

(i) the words "including" or "includes" do not imply any limitation;

(j) a reference to any time is a reference to that time in New Zealand; and

(k) references to money or "$" are to New Zealand dollars.

1.2 **Things required to be done other than on a Business Day**: Unless otherwise indicated, if the day on which any act, matter or thing is to be done is a day other than a Business Day, that act, matter or thing must be done on or by the next Business Day.

1.3 **No contra proferentem**: No term or condition of this Scheme Plan will be construed adversely to a party solely because that party was responsible for the preparation of this Scheme Plan or a provision of it.

2. CONDITIONS

2.1 **Conditions**: The implementation of the Scheme is conditional in all respects on:

(a) all of the Conditions having been satisfied or waived in accordance with the terms of the Scheme Implementation Agreement by 8.00am on the Implementation Date; and

(b) neither the Scheme Implementation Agreement nor the Deed Poll having been terminated in accordance with its terms before 8.00am on the Implementation Date.

3. CONSIDERATION INTO TRUST ACCOUNT

3.1 **Obligation to pay Consideration into Trust Account**: Subject to the Scheme Implementation Agreement not having been terminated and the Scheme having become Unconditional (except for the Conditions set out in clauses 3.1(d) and 3.1(e) of the Scheme Implementation Agreement), the Acquirer must, by no later than 4.00pm on the Business Day before the Implementation Date, deposit (or procure the deposit of) in immediately available cleared funds an amount equal to the aggregate amount of the cash Consideration payable to Scheme Shareholders (including any cash Consideration payable to Mercury) in a New Zealand dollar

denominated trust account operated by Computershare (the "**Funds**" and that account the "**Trust Account**").

3.2 **Details of Trust Account**:

(a) Subject to clause 3.2(b), the Trust Account will be held and operated by Computershare on the basis that the Funds are held on trust for the Acquirer and to its order, such that only the Acquirer may direct how the Funds will be paid from the Trust Account.

(b) Clause 3.2(a) is subject to a standing written direction from the Acquirer to the Company and to Computershare to make payment of the cash Consideration to the Scheme Shareholders in accordance with this Scheme Plan upon transfer of the Scheme Shares to the Acquirer under clause 4.1(b).

(c) The details of the Trust Account will be provided to the Acquirer by (or on behalf of) Computershare not less than three Business Days before the Implementation Date.

3.3 **Interest**: Any interest earned on the amount deposited in the Trust Account will be payable to the Acquirer by Computershare as directed by the Acquirer (less bank fees and other third party charges relating to the account).

3.4 **Scheme not implemented**: Should the implementation of the Scheme not occur by 5.00pm on the Implementation Date for any reason, Computershare will immediately repay the Funds to the Acquirer to such New Zealand dollar dominated account instructed to Computershare by the Acquirer.

4. IMPLEMENTATION

4.1 **Implementation**: Subject to any amendments or variations as may be required by the Court, the conditions set out in clause 2 being satisfied or waived in accordance with the provisions of the Scheme Implementation Agreement, the cash Consideration having been deposited into the Trust Account in accordance with clause 3.1 and the Acquirer having provided the written direction required by clause 3.2(b), commencing at 9.00 am on the Implementation Date, the following steps will occur sequentially:

(a) first, without any further act or formality, in consideration for Mercury assuming the obligation to satisfy the NZ Transferring Assets Purchase Price on behalf of Mercury Windfarms, the New Zealand Transferring Assets will transfer from the Company to, and vest in, Mercury Windfarms;

(b) second, without any further act or formality, all the Scheme Shares, together with all rights and entitlements attaching to them as at the Implementation Date, will be transferred to the Acquirer, and the Company must enter, or procure Computershare enter, the name of the Acquirer in the Register as holder of all of the Scheme Shares; and

(c) third, in accordance with the instructions required by clause 3.2(b), subject to compliance in full with clause 4.1(b) and, except as provided for in clause 4.2, the Company must instruct Computershare to pay or procure the payment from the Trust Account of the cash Consideration to each Scheme Shareholder based on the number of Scheme Shares held by such Scheme Shareholder as set out in the Register as at the Record Date, except in respect of Mercury which is only to be paid, or pay as the

case may require, the difference between the amount of the Mercury Consideration and the face value of the Loan Note.

4.2 If the Mercury Consideration exceeds the amount of the Loan Note (being an amount equal to the Acquirer Payment Obligation), Mercury agrees that the Acquirer may, and irrevocably instructs the Acquirer to, satisfy part of the Mercury Consideration in full and final satisfaction of the Loan Note, and the Acquirer must pay or procure the payment to Mercury from the Trust Account of the difference between the amount of the Mercury Consideration and the face value of the Loan Note. If the Mercury Consideration is less than the amount of the Loan Note, Mercury agrees that the Acquirer may, and irrevocably instructs the Acquirer to, satisfy the Mercury Consideration in part satisfaction of the Loan Note. Mercury must satisfy the balance of the Loan Note in cash in New Zealand dollars to the Acquirer by electronic funds transfer to a bank account nominated by the Acquirer, which may be the Trust Account, by no later than 4.00 pm on the Business Day before the Implementation Date.

4.3 In satisfaction of and substitution for Mercury's obligation to satisfy the NZ Transferring Assets Purchase Priceas referred to in clause 4.1(a), the Acquirer Payment Obligation will transfer from Mercury to, and vest in, the Company, such that following such transfer the Acquirer Payment Obligation will be a liability of the Acquirer owed to the Company, and an asset of the Company, for an amount equal to the NZ Transferring Assets Purchase Price.

5. PAYMENT OF CONSIDERTAION

5.1 **Method of payment:** The payment obligations under clause 4.1(c) will be satisfied by:

(a) where a Scheme Shareholder has, not less than five Business Days prior to the Record Date, provided bank account details to enable Computershare and the Company to make payments by electronic funds transfer, Computershare must pay the Consideration to the Scheme Shareholder by electronic funds transfer of the relevant amount to the bank account nominated by that Scheme Shareholder (unless the Company in its absolute discretion elects that payment should be made in accordance with clause 5.1(b)); or

(b) otherwise by Computershare dispatching, or procuring the dispatch of, a cheque for the relevant amount to the Scheme Shareholder by prepaid post to their Registered Address (as at the Record Date), such cheque being drawn in the name of the Scheme Shareholder (or in the case of joint holders, in accordance with the procedures set out in clause 5.2).

5.2 **Joint holders**: In the case of Scheme Shares held in joint names:

(a) subject to clause 5.1, the Consideration is payable to the joint holders and any cheque required to be sent under this Scheme Plan will be made payable to the joint holders and sent to either, at the sole discretion of the Company, the holder whose name appears first in the Register as at the Record Date or to the joint holders; and

(b) any other document required to be sent under this Scheme Plan, will be sent to either, at the sole discretion of the Company, the holder whose name appears first in the Register as at the Record Date or to the joint holders.

5.3 **Surplus in Trust Account:** To the extent that, following satisfaction of the obligations under clause 4.1(c), there is a surplus in the Trust Account, that surplus (less the aggregate amount of any cheques dispatched under clause 5.1(b) which remain unpaid, less any amount retained

under clause 5.5(b), and less bank fees and other third party charges relating to the account) shall be promptly paid to the Acquirer.

5.4 **Unclaimed monies**:

(a) The Company may cancel, and may instruct Computershare to cancel, a cheque issued under clause 5.1(b) if the cheque is returned to the Company or has not been presented for payment within one year after the Implementation Date, but such cancellation will not extinguish a Scheme Shareholder's claim.

(b) During the period of two years commencing on the Implementation Date, on request in writing from a Scheme Shareholder to the Company, the Company must reissue, or procure the reissue of, a cheque that was previously cancelled under clause 5.4(a) or in respect of an electronic transfer that was rejected by the recipient bank.

5.5 **Orders of a court or Government Agency:** Notwithstanding any other provision of this Scheme Plan, if written notice is given to the Company prior to the Record Date of an order or direction made by a court of competent jurisdiction or a Government Agency that:

(a) requires Consideration to be provided to a third party in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable to that Scheme Shareholder in accordance with clause 4.1(c), the Company will be entitled to procure, and the Acquirer will be deemed to have instructed Computershare to ensure, that provision of that Consideration is made in accordance with that order or direction; or

(b) prevents the Consideration from being provided to any particular Scheme Shareholder in accordance with clause 4.1(c), or the payment of such Consideration is otherwise prohibited by applicable law, the payment (equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Consideration) will be retained in the Trust Account until such time as provision of the Consideration to the Scheme Shareholder in accordance with clause 4.1(c) is permitted by that order or direction or otherwise by law, and any amount so retained under this clause 5.5(b) may be held by the Company or any of the Company's related companies, provided that the Company procures that such company complies with the obligations under this clause to pay such Consideration to any applicable Scheme Shareholders,

and such provision or retention (as the case may be) will constitute the full discharge of the Acquirer's and the Company's obligations under clause 4.1(c) with respect to the amount so provided or retained.

6. DEALING IN SHARES

6.1 **Trading Halt**:

(a) Following the sealing of the Final Court Orders the Company will advise NZX and ASX of the grant of the Final Court Orders and, once known, the Trading Halt Date and Record Date and use its reasonable endeavours to procure that the NZX and ASX suspend trading in the Shares from the close of trading on the Trading Halt Date.

(b) The Company must not accept for registration, nor recognise for any purpose (except a transfer to the Acquirer pursuant to this Scheme Plan and any subsequent transfer by the Acquirer or its successors in title), any transfer or transmission application or

other request received after 7.00 pm on the Record Date or received prior to such time, but not in registrable or actionable forms.

6.2 **Register**:

(a) The Company must register registrable transmission applications or registrable transfers of Shares received prior to the Trading Halt Date before 7.00pm on the Record Date provided that, for the avoidance of doubt, nothing in this clause 6.2(a) requires the Company to register a transfer that relates to a transfer of Shares on which the Company has a lien.

(b) A holder of Scheme Shares (and any person claiming through that holder) must not dispose of, or purport or agree to dispose of, any Scheme Shares, or any interest in them, after close of trading on the Trading Halt Date otherwise than pursuant to this Scheme Plan, and any attempt to do so will have no effect and the Company and the Acquirer shall be entitled to disregard any such disposal.

(c) For the purposes of determining entitlements to the Consideration, but subject to the requirements of the NZX Listing Rules, the Company must maintain the Register in accordance with the provisions of this clause 6 until the Consideration has been paid to the Scheme Shareholders. The Register in this form will solely determine entitlements to the Consideration.

(d) From 7.00pm on the Record Date, each entry that is current on the Register (other than entries on the Register in respect of the Acquirer), will cease to have effect except as evidence of entitlement to the Consideration in respect of the Shares relating to that entry.

(e) As soon as possible on the first Business Day after the Record Date and in any event by 7:00pm on that day, the Company must make available to the Acquirer in the form the Acquirer reasonably requires, details of the names, Registered Addresses and holdings of Shares for each Scheme Shareholder as shown in the Register on the Record Date.

7. GENERAL PROVISIONS

7.1 **Amendments to Consideration**: The Acquirer may increase the Consideration by written notice at any time to the Company prior to the Scheme Meeting, provided that the Scheme Implementation Agreement has not been terminated in accordance with its terms prior to the receipt of such notice by the Company.

7.2 **Title to and rights in Scheme Shares**:

(a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme Plan to the Acquirer will, at the time of transfer to the Acquirer, vest in the Acquirer free from all Encumbrances and free from any restrictions on transfer of any kind.

(b) Each Scheme Shareholder is taken to have warranted to the Acquirer on the Implementation Date that all their Scheme Shares (including any rights and entitlements attaching to those shares) which are transferred under this Scheme Plan will, at the time of transfer, be fully paid and free from all Encumbrances and restrictions on transfer of any kind, and that they have full power and capacity to

transfer their Shares to the Acquirer together with any rights and entitlements attaching to those Shares.

7.3 **Authority given to Company**: Each Scheme Shareholder, without the need for any further act:

(a) on the Final Orders Date, irrevocably appoints the Company as its attorney and agent for the purpose of enforcing the Deed Poll against the Acquirer (but without limiting each Scheme Shareholder's right to itself enforce the Deed Poll); and

(b) on the Implementation Date, irrevocably appoints the Company as its attorney and agent for the purpose of executing any document or doing or taking any other act necessary, desirable or expedient to give effect to the Scheme and the transactions contemplated by it,

and the Company accepts each such appointment. Each such attorney and agent, may sub-delegate its functions, authorities or powers under this clause 7.3 to one or more of the Company's directors or senior managers.

7.4 **Binding effect of Scheme**:

(a) The Scheme binds:

(i) the Company;

(ii) Mercury;

(iii) Mercury Windfarms;

(iv) the Acquirer; and

(v) all of the Scheme Shareholders (including those who did not attend the Scheme Meeting to vote on the Scheme, did not vote at the Scheme Meeting, or voted against this Scheme at the Scheme Meeting).

(b) In the event of any inconsistency, this Scheme Plan overrides the constitution of the Company.

7.5 **End Date**: If the Scheme has not become Unconditional on or before the End Date, or if the Scheme Implementation Agreement is terminated in accordance with its terms at any time, this Scheme Plan is immediately void and of no further force or effect (other than any provision of the Scheme or this Scheme Plan relating to the repayment to the Acquirer of any Funds deposited in accordance with clause 3 and the interest thereon (less bank fees and other third party charges relating to the account)).

7.6 **No liability when acting in good faith**: Each Scheme Shareholder agrees that none of the directors, officers or employees of the Company or the Acquirer, will be liable for anything done or omitted to be done in the performance of the Scheme in good faith.

7.7 **Successor obligations**: To the extent that any provision of the Scheme or this Scheme Plan imposes any obligation on the Acquirer or the Company that continues or arises after the implementation of the Scheme, such obligation may instead be performed by any successor or related company of the Acquirer or the Company (as applicable) in which case the obligation will be satisfied as if performed by the Acquirer or the Company (as applicable).

7.8 **Governing law**:

(a) This Scheme Plan and any non-contractual obligations arising out of or in connection with it is governed by and must be construed in accordance with the laws of New Zealand.

(b) The courts having jurisdiction in New Zealand have exclusive jurisdiction to settle any dispute arising out of or in connection with this Scheme Plan (including a dispute relating to any non-contractual obligations arising out of or in connection with this Scheme Plan) and the parties irrevocably submit to the exclusive jurisdiction of the courts having jurisdiction in New Zealand.

SCHEDULE 6

Standard OIO conditions

For the purposes of clause 3.3, the terms and conditions are:

1. the time period after which the consent will lapse if the Scheme Shares have not been acquired by and transferred to the Acquirer, provided such date is not less than 12 months from the date of the consent;

2. the requirement that the Scheme Shares be acquired using the acquisition, ownership and control structure described in the Acquirer's application for consent;

3. the requirement for the Acquirer to notify the Overseas Investment Office (**OIO**) in writing confirming that settlement of the acquisition of the Scheme Shares took place, such notice to include:

    a. the date of settlement (i.e. the date the Scheme Shares were acquired by the Acquirer);

    b. the final consideration paid (plus GST, if any);

    c. the structure by which the acquisition was made and who acquired the Scheme Shares; and

    d. where applicable, copies of transfer documents and settlement statements;

4. the requirement that the Acquirer, and the individuals with control of the Acquirer, must:

    a. continue to be of good character; and

    b. not become an individual of the kind referred to in sections 15 or 16 of the Immigration Act 2009 (New Zealand);

5. the requirement that the Acquirer must notify the OIO in writing within 20 working days if any of the following events happen:

    a. the Acquirer, any individual with control of the Acquirer, or any person in which the Acquirer or any individual with control of the Acquirer has, or had at the time of the offence, a 25% or more ownership or control interest, commits an offence or contravenes the law anywhere in the world (whether convicted or not);

    b. an individual with control of the Acquirer:

        i. ceases to be of good character;

        ii. commits an offence or contravenes the law (whether they are convicted or not);

        iii. becomes aware of any other matter that reflects adversely on their fitness to have the Scheme Shares; or

        iv. becomes an individual of the kind referred to in section 15 or 16 of the Immigration Act 2009 (New Zealand);

c. the Acquirer ceases to be an overseas person or disposes of all or any part of the Scheme Shares;

d. the Acquirer, any individual with control of the Acquirer, or any person in which the Acquirer or any individual with control of the Acquirer has, or had at the time of the event, a 25% or more ownership or control interest:

i. becomes bankrupt or insolvent;

ii. has an administrator, receiver, liquidator, statutory manager, mortgagee's or chargee's agent appointed;

iii. becomes subject to any form of external administration;

e. the Acquirer's service address (as outlined in the Acquirer's application for consent) changes;

6. the requirement that the Acquirer (including all governing bodies and associates), must not act or omit to act with a purpose or an intention of adversely affecting the national interest (including national security or public order) in relation to the Transaction;

7. the requirement that the Acquirer must provide a written report to the OIO on any matter relating to its compliance with:

a. the representations and plans made or submitted in its application for consent; or

b. any or all of the conditions of the consent or direction order.

8. the requirement that the information provided by the Acquirer to the OIO or the relevant Minister or Ministers in connection with the application for the consent was correct at the time it was provided.

SCHEDULE 7

Deed Poll

Attached.

Deed Poll

relating to a scheme of arrangement under Part 15 of the Companies Act 1993 involving Tilt Renewables Limited

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PARTIES

Pisa Obligor Co 1 Pty Ltd

Acquirer

Each registered holder of Scheme Shares as at 7.00pm on the Record Date

Scheme Shareholders

DEED dated 2021

PARTIES

Pisa Obligor Co 1 Pty Ltd (ACN 648 537 017)

("**Acquirer**")

Each registered holder of Scheme Shares as at 7.00pm on the Record Date

("**Scheme Shareholders**")

INTRODUCTION

A. Tilt Renewables Limited ("**Company**"), Mercury and the Acquirer are parties to the Scheme Implementation Agreement.

B. The Company has agreed in the Scheme Implementation Agreement to propose a scheme of arrangement between the Company, the Acquirer, Mercury and the Scheme Shareholders, the effect of which will be that all Scheme Shares will be transferred to the Acquirer, and the Acquirer will provide or procure the provision of the Consideration to the Scheme Shareholders.

C. The Acquirer is entering into this Deed Poll for the purpose of undertaking in favour of the Scheme Shareholders to pay the Consideration to the Scheme Shareholders in accordance with the terms of the Scheme Plan.

COVENANTS

1. DEFINED TERMS AND INTERPRETATION

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

"**Final Orders**" means, on application of the Company, orders that the Scheme will be binding on the Company, Mercury, the Acquirer, the Scheme Shareholders and such other persons or class of persons as the Court may specify, in accordance with section 236(1) (and section 237, if applicable) of the Companies Act;

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

"**Scheme Implementation Agreement**" means the scheme implementation agreement between the Company, Mercury and the Acquirer dated 14 March 2021 whereby the Company has agreed to propose a scheme of arrangement; and

"**Scheme Plan**" means the Scheme plan attached as Schedule 5 to the Scheme Implementation Agreement, subject to any alterations or conditions approved by the Acquirer, Mercury and the Company in writing and which are disclosed to the Court prior to the Court making the Final Orders.

1.2 **Words defined in the Scheme Plan**: Words defined in the Scheme Plan which are not separately defined in this Deed Poll have the same meaning when used in this Deed Poll.

1.3 **Interpretation**: Clauses 1.2 and 1.4 of the Scheme Plan apply to the interpretation of this Deed Poll, except that references to "this Scheme Plan" are to be read as reference to "this Deed Poll".

2. NATURE OF THIS DEED POLL

2.1 **Third party rights and appointment of attorney**:

(a) This Deed Poll is intended to, and does, confer a benefit on, and therefore may be relied on and enforced by, any Scheme Shareholder in accordance with its terms under Part 2, Subpart 1 of the Contract and Commercial Law Act 2017 (but not otherwise), even though the Scheme Shareholders are not party to it.

(b) Under the Scheme Plan each Scheme Shareholder appoints the Company as the Scheme Shareholder's attorney and agent to enforce this Deed Poll against the Acquirer with effect on and from the date prescribed for such appointment in the Scheme Plan (but without limiting each Scheme Shareholder's right to itself enforce this Deed Poll).

(c) Notwithstanding clauses 2.1(a) and 2.1(b), this Deed Poll may be varied by the Acquirer and the Company in accordance with clause 7.2 without the approval of any Scheme Shareholders or Mercury.

2.2 **Continuing obligations**: This Deed Poll is irrevocable and, subject to clause 3, remains in full force and effect until either:

(a) the Acquirer has fully performed its obligations under it; or

(b) it is terminated under clause 3.2.

3. CONDITIONS

3.1 **Conditions**: This Deed Poll, and the obligations of the Acquirer under it, are conditional in all respects on the Scheme becoming Unconditional (save for the Conditions set out in clauses 3.1(d) and 3.1(e) of the Scheme Implementation Agreement).

3.2 **Termination**: The obligations of the Acquirer under this Deed Poll will automatically terminate, and the terms of this Deed Poll will be of no force or effect, if:

(a) the Scheme Implementation Agreement is validly terminated in accordance with its terms before the Scheme becomes Unconditional; or

(b) the Scheme does not become Unconditional on or before 5.00pm on the End Date,

unless the Acquirer and the Company otherwise agree in writing.

3.3 **Consequences of termination**: If this Deed Poll is terminated under clause 3.2, then the Acquirer is released from its obligations to further perform this Deed Poll.

4. SCHEME CONSIDERATION

4.1 Subject to the Scheme Implementation Agreement not being terminated and the Scheme having become Unconditional (save for the Conditions set out in clauses 3.1(d) and 3.1(e) of the Scheme Implementation Agreement), the Acquirer undertakes in favour of each Scheme Shareholder to deposit, or procure the deposit of, in immediately available cleared funds, by no later than 4.00pm on the Business Day before the Implementation Date, an amount equal to the aggregate amount of the Consideration payable in cash to all Scheme Shareholders (including any cash Consideration payable to Mercury) on the Implementation Date as set out in clause 3.1 of the Scheme Plan, such deposit to be made into the Trust Account to be held and dealt with by Computershare in accordance with the Scheme Plan.

4.2 Subject to clause 3, the Acquirer irrevocably acknowledges and agrees that, subject to compliance in full by the Company with its obligations under clause 4.1 of the Scheme Plan, the Consideration deposited into the Trust Account must be, and will be, paid in accordance with clause 5 of the Scheme Plan in satisfaction of the Scheme Shareholders' respective entitlements to receive the Consideration under the Scheme in accordance with the Scheme Plan.

5. WARRANTIES

5.1 The Acquirer warrants in favour of each Scheme Shareholder that:

(a) it is a company validly incorporated in Australia;

(b) it has the corporate power to enter into, and perform its obligations under, this Deed Poll and to carry out the transactions contemplated by this Deed Poll;

(c) it has taken all necessary corporate action to authorise its entry into this Deed Poll and has taken, or will prior to the Implementation Date take, all necessary corporate action to authorise the performance of this Deed Poll and to carry out the transactions contemplated by this Deed Poll;

(d) this Deed Poll is valid and binding on it and enforceable against it in accordance with its terms; and

(e) this Deed Poll does not conflict with, or result in the breach of or default under, any provision of its constitution, or any writ, order or injunction, judgment, law, rule or regulation to which it is a party or subject or by which it is bound.

6. NOTICES

6.1 **Manner of giving notice**: Any notice or other communication to be given under this Deed Poll must be in writing and may be physically delivered or sent by email to the Acquirer at:

Attention:	Geoff Dutaillis
Physical address:	Powering Australian Renewables, Level 10, 70 Phillip Street, Sydney NSW 2000, Australia

Email address: gdutaillis@parf.com.au

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

Address: Harmos Horton Lusk
Level 33, Vero Centre
48 Shortland Street, Auckland 1140

Attention: Andrew Harmos / Nathanael Starrenburg

Email: andrew.harmos@hhl.co.nz / nathanael.starrenburg@hhl.co.nz

or at any such other address or email address notified for this purpose to the other parties under this clause. Any notice or other communication sent by post must be sent by prepaid ordinary post (if the country of destination is the same as the country of origin) or by airmail (if the country of destination is not the same as the country of origin).

6.2 **When notice given**: In the absence of earlier receipt, any notice or other communication is deemed to have been given:

(a) if delivered, on the date of delivery; or

(b) if sent by email, four business hours (being the hours between 9.00am and 5.00pm on a Business Day in the jurisdiction of the recipient) after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered (excluding an "out of office" automated message),

but if the notice or other communication would otherwise be taken to be received after 5.00pm or on a Saturday, Sunday or public holiday in the place of receipt then the notice or communication is taken to be received at 9.00am on the next day that is not a Saturday, Sunday or public holiday in the place of receipt.

6.3 **Proof of service**: In proving service of a notice or other communication, it is sufficient to prove that delivery was made or that the envelope containing the communication was properly addressed and posted either by prepaid post or by prepaid airmail or that the e-mail was properly addressed and transmitted by the sender's server into the network and there was no apparent error in the operation of the sender's e-mail system, as the case may be.

6.4 **Documents relating to legal proceedings**: This clause 6 does not apply in relation to the service of any claim form, notice, order, judgment or other document relating to or in connection with any proceedings, suit or action arising out of or in connection with this Deed Poll.

7. GENERAL

7.1 **Waiver**:

(a) The Acquirer may not rely on the words or conduct of any Scheme Shareholder as a waiver of any right in respect of the Scheme unless the waiver is in writing and signed by the Scheme Shareholder granting the waiver.

(b) For the purposes of clause 7.1(a):

(i) conduct includes a delay in exercising a right;

(ii) right means any right arising under or in connection with this Deed Poll and includes the right to rely on this clause; and

(iii) waiver includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

7.2 **Variation**:

(a) Subject to clauses 7.2(b) and 7.2(c), this Deed Poll may not be varied.

(b) Before the date on which the Final Orders are made, this Deed Poll may be varied by agreement in writing between the Acquirer and the Company, in which event the Acquirer will enter into a further deed poll in favour of the Scheme Shareholders giving effect to the variation.

(c) If the Court orders that it is a condition of the Scheme that the Acquirer enters into a new deed poll which has the effect of reversing any variation under clause 7.2(b), then, if the Acquirer so agrees, the Acquirer must promptly enter into a further deed poll in favour of the Scheme Shareholders to give effect to the reversal of that variation.

7.3 **Cumulative rights**: The rights, powers and remedies of the Scheme Shareholders under this Deed Poll are cumulative and do not exclude any other rights, power or remedies provided by law independently of this Deed Poll.

7.4 **Assignment**: The rights and obligations of the Acquirer and each Scheme Shareholder under this Deed Poll are personal. They cannot be assigned, charged or otherwise dealt with at law or in equity. Any purported dealing in contravention of this clause 7.4 is invalid.

7.5 **Further assurance**: The Acquirer must, at its own expense, do all things reasonably required of it to give full force and effect to this Deed Poll and the transactions contemplated by it.

7.6 **Governing law and jurisdiction**:

(a) This Deed Poll and any non-contractual obligations arising out of or in connection with it are governed by the law applying in New Zealand.

(b) The courts having jurisdiction in New Zealand have exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed Poll (including a dispute relating to any non-contractual obligations arising out of or in connection with this Deed Poll) and the Acquirer irrevocably submits to the exclusive jurisdiction of the courts having jurisdiction in New Zealand.

7.7 **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 Poll and will ensure that at all times prior to the termination of this Deed Poll, Andrew Harmos and Nathanael Starrenburg of Harmos Horton Lusk or a replacement appointed by the Acquirer and approved by the Company, is authorised and able to accept service of process and other documents on its behalf in New Zealand.

Executed and delivered as a deed poll

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	Signature of director/secretary
Name of director (print)	Name of director/secretary (print)