

IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY
I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKĀURAU ROHE

CIV-2021-404-941

UNDER

Part 15 of the Companies Act 1993

IN THE MATTER OF

an application for orders approving a scheme of arrangement under Part 15 of the Companies Act 1993

TILT RENEWABLES LIMITED a duly incorporated company with its registered address c/- Russell McVeagh, Level 30, Vero Centre, 48 Shortland Street, Auckland 1010, New Zealand, and carrying on business as a developer, owner and operator of renewable energy generation in Australia and New Zealand

Applicant

ORDERS APPROVING A SCHEME OF ARRANGEMENT UNDER PART 15 OF
THE COMPANIES ACT 1993

SEALED: 23 JULY 2021

Russell
McVeagh

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BEFORE THE HONOURABLE JUSTICE CAMPBELL

the 22nd day of July 2021

AFTER READING the amended originating application of the applicant, Tilt Renewables Limited, for orders approving a scheme of arrangement under Part 15 of the Companies Act 1993 dated 2 June 2021, the without notice interlocutory application for initial orders under Part 15 of the Companies Act 1993 dated 24 May 2021, the memoranda of counsel for Tilt Renewables Limited dated 24 May 2021, 2 June 2021, and 21 July 2021, the memoranda of counsel for Pisa Obligor Co 1 Pty Ltd dated 2 June 2021 and 20 July 2021, the memoranda of counsel for Mercury NZ Limited and Mercury Wind Limited dated 2 June 2021 and 21 July 2021, the affidavits of Dr Bruce James Harker affirmed 24 May 2021 and 20 July 2021, the affidavits of Stephen John Symons affirmed 24 May 2021 and 20 July 2021, the affidavits of Geoffrey Raymond Dutailis affirmed 21 May 2021 and 20 July 2021, the affidavits of Grant Robert Graham sworn 24 May 2021 and 20 July 2021, and the affidavits of Anne June Urlwin affirmed 24 May 2021, William Thomas Meek sworn 24 May 2021, Matthew John Dynes-Morgan affirmed 2 June 2021, Charles Douglas Christie affirmed 21 July 2021 and Sid Terence Dymond affirmed 21 July 2021, **THIS COURT ORDERS:**

1. The scheme of arrangement described in the Scheme Plan (located at Schedule 1 of these orders) ("**Scheme**") is approved.
2. The Scheme is binding with immediate effect upon:
 - (a) Tilt Renewables Limited;
 - (b) Pisa Obligor Co 1 Pty Ltd;
 - (c) Mercury NZ Limited;
 - (d) Mercury Wind Limited (formerly called Mercury SPV 2021 Limited);
 - (e) every person who is a Shareholder (as defined in the Scheme Plan) as at the Record Date (also defined in the Scheme Plan); and
 - (f) such other persons as necessary to give effect to the Scheme.
3. Tilt Renewables Limited is granted leave to apply to the Court for approval of any amendment, modification, or supplement to the Scheme.

DATE: 23 July 2021

ISABELLA WILSON
DEPUTY REGISTRAR

(Deputy) Registrar



SCHEDULE 1 – 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 WIND LIMITED ("Mercury Wind")

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 \$8.10 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 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 Wind, 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.

"Hyperwallet" means Hyperwallet Systems Inc. (a company incorporated under the federal laws of Canada) including any of its related companies.

"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 \$634,434,937, 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, as amended on 16 April 2021.

"**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.

1.2 **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.

1.3 **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.

1.4 **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 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 clauses 3.2(b), 5.4, 5.5 and 5.6, 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 up to Implementation 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 denominated 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 (to be confirmed to Computershare by written notice given by the Acquirer and the Company prior to 9.00 am on the Implementation Date, which written notice must be so given immediately after 8.00am on the Implementation Date upon the conditions set out in clause 2 being satisfied), the cash Consideration having been deposited into the Trust Account in accordance with clause 3.1, 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 Wind, the New Zealand Transferring Assets will transfer from the Company to, and vest in, Mercury Wind;
- (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 set out in 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 to pay the difference between the amount of the Mercury Consideration and the face value of the Loan Note.

- 4.2 Given 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 in immediately available cleared funds 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 Price as 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 CONSIDERATION

5.1 **Method of payment:** The payment obligations under clause 4.1(c) will be satisfied by:

- (a) where a Scheme Shareholder has, prior to the Record Date, provided bank account details to enable Computershare and the Company to make payments of New Zealand dollars by electronic funds transfer, Computershare must pay the Consideration in New Zealand dollars to the Scheme Shareholder by electronic funds transfer of the relevant amount to the bank account nominated by that Scheme Shareholder;
- (b) where a Scheme Shareholder has, prior to the Record Date, provided bank account details to enable Computershare and the Company to make payments of Australian dollars by electronic funds transfer, Computershare must pay the Consideration to the Scheme Shareholder by electronic funds transfer of the relevant amount in Australian dollars to the bank account nominated by that Scheme Shareholder;
- (c) where a Scheme Shareholder that has an address outside of New Zealand and Australia has, prior to the Record Date, registered to be paid by Hyperwallet, Computershare must transfer the Consideration owed to such Scheme Shareholder to the New Zealand dollar denominated trust account operated by Hyperwallet and instruct Hyperwallet to pay that Consideration (less any applicable costs and fees) to such Scheme Shareholder (in the currency nominated by such Scheme Shareholder to Hyperwallet); or
- (d) where a Scheme Shareholder has not provided the information and/or taken the steps contemplated by clauses 5.1(a), 5.1(b) and 5.1(c) to enable payment to be made to such Scheme Shareholder in a manner contemplated by one of those clauses (or if an electronic payment to such Scheme Shareholder is rejected by the recipient bank) Computershare must retain the Consideration owed to that Scheme Shareholder in the Trust Account.

If a Shareholder has given more than one payment direction, then the later in time will be followed.



- 5.2 **Joint holders:** In the case of Scheme Shares held in joint names:
- (a) the Consideration is payable to the bank account nominated by the joint holders or, at the sole discretion of the Company, nominated by the holder whose name appears first in the Register as at the Record Date; 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 the Consideration retained in the Trust Account in accordance with clause 5.1(d) or clause 5.6(b), and less bank fees and other third party charges relating to the account) shall be promptly paid to the Acquirer.
- 5.4 **Holding on Trust:** The Company must, in respect of any monies retained by Computershare pursuant to clause 5.1(d) or clause 5.6(b), instruct Computershare to hold such monies in the Trust Account on trust for the relevant Scheme Shareholders for a period of two years and thereafter, subject to clause 5.6, to pay any remaining money in the Trust Account to the Company.
- 5.5 **Unclaimed monies:** During the period of two years commencing on the Implementation Date, on request in writing from a Scheme Shareholder that has not received payment of the Consideration in accordance with clause 5.1(a), 5.1(b) or 5.1(c), Computershare must, if such Scheme Shareholder has taken the necessary steps required to effect payment to such Scheme Shareholder in a manner contemplated by clause 5.1(a), 5.1(b) or 5.1(c), pay to that Scheme Shareholder the Consideration held on trust for that Scheme Shareholder in a manner contemplated by clause 5.1(a), 5.1(b) or 5.1(c) (or in any other manner approved by Computershare and agreed to by that Scheme Shareholder).
- 5.6 **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) or clause 5.5 (as applicable) is permitted by that order or direction or otherwise by law,

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.



5.7 Exchange Rate:

- (a) If a Scheme Shareholder elects to be paid in Australian dollars as contemplated by clause 5.1(b), the conversion of the Consideration into Australian dollars will be undertaken in a manner and at an exchange rate determined by Computershare, and neither the Company nor the Acquirer will be responsible for (or have any liability in connection with) any such conversion.
- (b) If a Scheme Shareholder elects to be paid by Hyperwallet in a foreign currency as contemplated by clause 5.1(c), the conversion of the Consideration into such foreign currency will be undertaken in a manner and at an exchange rate determined by Hyperwallet, and neither the Company nor the Acquirer will be responsible for (or have any liability in connection with) any such conversion.

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 Wind;
 - (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.

