

Disclosure of movement of 1% or more in substantial holding or change in nature of relevant interest or both

Sections 23 and 24, Securities Markets Act 1988

Relevant event being disclosed: Movement

Date of relevant event: 12 July 2011

To: New Zealand Exchange Limited

And: Infratil Limited

Date this disclosure made: 12 July 2011

Date last disclosure made: 6 October 2010

Substantial security holder(s) giving disclosure

Name(s): Utilico Investments Limited

Contact details: David Shillson +64 4 498 0890; david.shillson@kensingtonswan.com

Summary of substantial holding to which disclosure relates

Class of listed voting securities: Ordinary shares

Summary for: Utilico Investments Limited

For **this** disclosure,—

- (a) total number held in class: 98,038,296 ordinary shares
- (b) total in class: 604,226,597 ordinary shares (excluding treasury stock)
- (c) total percentage held in class: 16.23% (which will reduce to 13.74% following completion of the sale referred to in (1) below, which is subject to shareholder approval).

For **last** disclosure,—

- (a) total number held in class: 113,038,296 ordinary shares
- (b) total in class: 606,604,931 ordinary shares (including 4,987,996 ordinary shares held as treasury stock)
- (c) total percentage held in class: 18.634%

Details of transactions and events giving rise to relevant event

Details of the transactions or other events requiring disclosure under the instructions to this form:

- (1) Conditional sale of 15,000,000 fully-paid ordinary shares by Utilico Investments Limited to HRL Morrison & Co Limited pursuant to agreement for sale and purchase of shares dated 12 July 2011 (**attached** in accordance with regulation 11).
- (2) Sale of 15,000,000 fully-paid ordinary shares by Utilico Investments Limited at \$1.80 per share (on market transaction).

Details of relevant interests in substantial holding after relevant event

Details for: Utilico Investments Limited

Nature of relevant interest(s): Beneficial owner of the ordinary shares

For that relevant interest,—

- (a) number held in class: 98,038,296 ordinary shares
- (b) percentage held in class: 16.162%

- (c) current registered holder(s) of securities: National Nominees Limited
- (d) registered holder(s) of securities once transfers registered: No change

Additional information

Nature of connection between substantial security holders: N/A.

Address(es) of substantial security holder(s): c/- Kensington Swan
97 The Terrace
Wellington


Name of any other person believed to have given, or believed to be required to give, a disclosure under the Act in relation to the securities to which this disclosure relates:

HRL Morrison & Co Limited

HRL Morrison & Co Group Limited

Declaration

I, David Shillson, declare that, to the best of my knowledge and belief, the information contained in this disclosure is correct and that I am duly authorised to make this disclosure by all persons for whom it is made.



Signature

DATED 12 July

2011

**AGREEMENT FOR THE SALE AND
PURCHASE OF SHARES IN INFRATIL
LIMITED**

Vendor
UTILICO INVESTMENTS LIMITED

Purchaser
H.R.L. MORRISON & CO LIMITED

MCo Group
H.R.L. MORRISON & CO GROUP LIMITED

AGREEMENT FOR THE SALE AND PURCHASE OF SHARES IN INFRATIL LIMITED

DATED

2011

PARTIES

- (1) UTILICO INVESTMENTS LIMITED (Vendor)
- (2) H.R.L. MORRISON & CO LIMITED (Purchaser)
- (3) H.R.L. MORRISON & CO GROUP LIMITED (MCo Group)

INTRODUCTION

The Vendor has agreed to sell and the Purchaser has agreed to purchase 15 million fully paid ordinary shares in Infratil Limited on the terms and condition set out in this Agreement.

MCo Group is the Purchaser's holding company and has agreed to undertake certain actions itself and to guarantee to the Vendor the Purchaser's obligations under this Agreement.

TERMS OF THIS AGREEMENT

1. INTERPRETATION

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

"**Agreement**" means this Agreement;

"**Business Day**" means Monday to Friday, excluding public holidays in Wellington;

"**Company**" means Infratil Limited;

"**Completion**" means the completion of the sale and purchase of the Shares in accordance with clause 4 or, as the context may require, the time when such performance is completed;

"**Completion Date**" means the First Completion Date or the Second Completion Date, as the context requires;

"**Custodian**" means National Nominees Limited, the New Zealand registered company which holds the Vendor's entire holding of securities in the Company as the Vendor nominee;

"**Encumbrance**" includes a security agreement, debenture, mortgage, charge, pledge, lien, title retention, option, right of first refusal, right of pre-emption, any "security interest" as that term is defined in the Personal Property Securities Act 1999, and any other third party interest of any kind and "Encumber" includes the creation of or agreement to create an Encumbrance;

"**First Completion Date**" means the day that is 5 Business Days following satisfaction of the condition in clause 3.1;

'**Interest Rate**' means the rate of interest equal to, at the relevant time, the prevailing Official Cash Rate as set by the Reserve Bank of New Zealand plus 7.5% and for clarification, means the rate of 10% pa if it were determined on the date of this Agreement

"**Purchase Price**" means the aggregate of the Tranche One Purchase Price and the Tranche Two Purchase Price;

"**Second Completion Date**" means 30 March 2012;

"**Shares**" means Tranche One and Tranche Two being 15,000,000 fully paid ordinary shares in the Company held by the Vendor;

"**Takeovers Code**" means the Takeovers Code approved by Takeovers Code Approval Order 2000 (SR2000/210), as may be varied by any exemption granted thereto;

"**Tranche One**" means 10,000,000 fully paid ordinary shares in the Company;

"**Tranche One Purchase Price**" means NZ\$18,500,000;

"**Tranche Two**" means 5,000,000 fully paid ordinary shares in the Company; and

"**Tranche Two Purchase Price**" means NZ\$9,250,000.

1.2 **Interpretation:** In the interpretation of this Agreement, unless the context otherwise requires:

- (a) **person** includes an individual, a body corporate, an association of persons (whether corporate or not), a trust, or any regulatory authority, in each case whether or not having a separate legal personality;
- (b) a reference to a **party** includes the person's executors, administrators, and permitted assigns;
- (c) **\$** or **dollars** refers to New Zealand dollars and, unless otherwise specified, all amounts payable by a party under this Agreement are to be paid in New Zealand currency;
- (d) **the headings** are for ease of reference only and are to be ignored in the interpretation of this Agreement;
- (e) **including** and similar words do not imply any limitation;
- (f) **the singular** includes the **plural** and vice versa;
- (g) a **statute** or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether made before or after this Agreement); and
- (h) a reference to any **document** or **agreement** (including this Agreement) includes a reference to that document or agreement as amended, novated or replaced from time to time.

2. SALE AND PURCHASE

- 2.1 **Agreement to sell and purchase:** The Vendor agrees to sell to the Purchaser, and the Purchaser agrees to purchase, legal and beneficial title to the Shares on the terms and condition set out in this Agreement, free from all Encumbrances.
- 2.2 **Guarantee of the Purchaser's obligations:** In consideration of the Vendor agreeing to enter into this Agreement, MCo Group hereby agrees that not only will it comply with its obligations under clause 3.2 but it will procure that the Purchaser will comply with its obligations under this Agreement and so MCo Group guarantees to the Vendor the obligations of the Purchaser under this Agreement and will fully indemnify the Vendor in the event of either the Purchaser or MCo Group failing to comply with their respective obligations under this Agreement.
- 2.3 **Title:** The Vendor's title, rights and interest in and to the Shares and all rights, including distributions (other than distributions which have been declared but have not been paid by the Company at Completion) and voting rights, attaching or accruing to them will pass from the Vendor to the Purchaser upon Completion. Should any distribution have been declared but not have been paid then the Vendor shall remain entitled to receive that payment from the Company and should the Purchaser receive such payment then it will account to the Vendor for such payment without set off or deduction.
- 2.4 **Lowest price:** For the purposes of the financial arrangements rules in the Income Tax Act 2007, the parties agree that:
- (a) they are independent parties dealing at arm's length with each other in relation to the transactions contemplated by this Agreement;
 - (b) the Tranche One Purchase Price is the lowest price (denominated in \$) they would have agreed, on the date this agreement was entered into, if payment would have been required in full at the time the first "right" (within the meaning given to that term in the Income Tax Act 2007) in Tranche One was transferred;
 - (c) the Tranche Two Purchase Price is the lowest price (denominated in \$) they would have agreed, on the date this agreement was entered into, if payment would have been required in full at the time the first "right" (within the meaning given to that term in the Income Tax Act 2007) in Tranche Two was transferred; and
 - (d) the Purchase Price does not include any capitalised interest component and, for the avoidance of doubt, neither the Tranche One Purchase Price nor the Tranche Two Purchase Price includes any capitalised interest component.

3. CONDITION

- 3.1 **Condition:** This Agreement is conditional upon the approval by ordinary resolution of shareholders of the Company to the acquisition of the Shares by the Purchaser contemplated by this Agreement in accordance with Rule 7(c) of the Takeovers Code at a meeting of shareholders of the Company to be held prior to 30 September 2011.

- 3.2 **Best endeavours to fulfil:** The Vendor, MCo Group and the Purchaser shall each use their best endeavours to ensure the fulfilment of the condition in clause 3.1. Such endeavours shall include, but not be limited to, procuring, to the extent reasonably possible, the Company to call the meeting of shareholders contemplated in clause 3.1 and to commission and/or cooperate with any party required to complete a report for shareholders to consider prior to the shareholder meeting contemplated in clause 3.1. However, best endeavours to ensure fulfilment of the condition in clause 3.1 shall not entail or require the Vendor to sell to the Purchaser (or to any other person) shares or securities in the Company in addition to the Shares or require the Purchaser to purchase additional shares from the Vendor (or any other person) or require either the Vendor or the Purchaser to agree to particular conditions or restrictions in relation to their holding of securities issued by the Company. The parties agree that the Purchaser shall be responsible for coordinating the parties' efforts to satisfy the Condition and the Purchaser shall provide regular reports to the Vendor in relation to progress in ensuring that the shareholders meeting contemplated in clause 3.1 will occur prior to 30 September 2011 and that all reports and other information required by the Takeovers Code, the Company's constitution, NZX Rules and/or any other applicable law, regulation or rule be provided to shareholders in a timely manner so as to ensure that shareholders are able to vote on the issue specified in clause 3.1. In addition to the foregoing, the parties agree that should it be required, they will take all reasonable steps necessary to obtain shareholder approval and agreement from the Takeovers Panel to a variation to the Takeovers Code (Infratil Limited) Exemption 2010 or to the granting of a new Exemption Notice which will allow the Vendor the same rights in respect of the exercise of warrants that it has under the 2010 Exemption Notice.
- 3.3 **If condition is not satisfied:** This Agreement is voidable by written notice given by either party to the other in the event that the condition in clause 3.1 has not been fulfilled by 4pm on 30 September 2011 and if this Agreement is so avoided then subject to the provisions of this clause the Agreement, will be of no further force or effect and the parties shall be released from their obligations under this Agreement except that where any party has failed to utilise their best endeavours in accordance with clause 3.2 then that party, and any party who has guaranteed that party, will not be released from all of their obligations under this Agreement and the other party shall retain their remedies in relation to such failure.

4. COMPLETION

- 4.1 **Time and place:** Completion shall take place at no later than 3.00 pm on the relevant Completion Date at the offices of the Purchaser or at such other place and/or time agreed in writing by the Vendor and the Purchaser.
- 4.2 **Tranche One Completion:** On the First Completion Date:
- (a) the Vendor must deliver to the Purchaser confirmation that a SWIFT instruction has been given to the Custodian by the Vendor's custodian to deliver Tranche One on the First Completion Date for the account of the Purchaser (the Purchaser having given a SWIFT instruction to the Custodian that it will receive Tranche One); and
 - (b) the Purchaser shall pay the Tranche One Purchase Price to the Vendor.

- 4.3 **Tranche Two Completion:** On the Second Completion Date:
- (a) the Vendor must deliver to the Purchaser confirmation that a SWIFT instruction has been given to the Custodian by the Vendor's custodian to deliver Tranche Two on the Second Completion Date for the account of the Purchaser (the Purchaser having given a SWIFT instruction to the Custodian that it will receive Tranche Two); and
 - (b) the Purchaser shall pay the Tranche Two Purchase Price to the Vendor.
- 4.4 **Simultaneous performance:** The Vendor and Purchaser shall perform its obligations under clauses 4.2 and 4.3, as near as is reasonably practicable, simultaneously on the relevant Completion Date. Any payment or delivery made by a party in accordance with clause 4.2 or 4.3 shall be made against the performance by the other party of its obligations under that clause.
- 4.5 **Payments:** All amounts payable by the Purchaser to the Vendor under this Agreement will be paid in cleared funds into Kensington Swan's trust account, the account details of which are to be notified to the Purchaser not less than three Business Days prior to the First Completion Date, free of any restriction or condition and without any deduction or withholding on account of any other amount, whether by way of set-off, counter claim or otherwise.
- 4.6 **Default by the Purchaser:** If a party does not comply with its obligations under this clause 4, then without prejudice to any other remedy available to them, the other party shall, should the non compliance continue, be entitled to cancel this Agreement by notice in writing with immediate effect at 5 pm on the fifth Business Day following the date when the party was due to comply with its obligations under this clause 4.
- 4.7 **Interest on late paid monies:** Should the Purchaser not make payment of any monies payable under sub clauses 4.2(b) or 4.3(b) of this Agreement on the due date or by the appointed hour on the due date then the Purchaser shall pay interest on the amount due which is unpaid, at the Interest Rate, calculated daily, until payment of the amount due has been paid
- 4.8 **Capital Reconstruction:** In the event that prior to Completion there is a capital restructuring of the Company whereby the Shares are consolidated or subdivided, the number of Shares comprising Tranche One and Tranche Two shall be adjusted in the manner necessary to reflect that consolidation or subdivision.

5. NOTICES

- 5.1 **Writing:** Each notice or other communication expressly contemplated under this Agreement (each a "notice") shall be in writing and delivered personally or sent by post or email.
- 5.2 **Addresses:** Each notice is to be sent to the address of the relevant party set out below or to any other address from time to time designated for that purpose by at least five Business Days prior notice to the other party. The initial address details of each party is set out under its name at the end of this Agreement.
- 5.3 **Receipt:** A notice under this Agreement is deemed to be received if:
- (a) **Delivery:** delivered personally, when delivered;

- (b) **Post:** posted, three Business Days after the date of posting; and
 - (c) **Email:** emailed, only when actually received in readable form by the recipient,
- provided that any notice received or deemed received after 5pm or on a non-Business Day shall be deemed to have been received on the next Business Day.

6. MISCELLANEOUS

6.1 **Entire agreement:** This Agreement:

- (a) constitutes the entire understanding and agreement of the parties relating to the sale and purchase of the Shares and the other matters contained in this Agreement; and
- (b) supersedes and extinguishes all prior agreements and understandings between the parties relating to that sale and purchase and those matters.

6.2 **Time of essence:** Time is of the essence in the performance by the parties of their obligations under this Agreement.

6.3 **Exercise of rights and waivers:** No waiver of a party's rights is effective unless given by that party in writing. No failure on the part of a party to exercise any right under this Agreement will operate as a waiver. No single or partial exercise of any right under this Agreement will preclude any other or further exercise of that right or the exercise of any other right.

6.4 **Further assurances:** Each party must promptly do everything reasonably required to give full effect to the terms and intentions of this Agreement.

6.5 **Severance:** The illegality, invalidity or unenforceability at any time of any provision of this Agreement will not affect the legality, validity or enforceability of the remaining provisions of this Agreement nor the legality, validity or enforceability of that provision under the law of any other jurisdiction.

6.6 **No merger:** The obligations, warranties and representations of the parties under this Agreement, to the extent not already performed at Completion, will not merge on Completion, or on the execution or delivery of any document in connection with this Agreement, but will remain enforceable to the fullest extent notwithstanding any rule of law to the contrary.

6.7 **No Assignment:** No party may assign or transfer any of its rights or obligations under this Agreement with the prior written consent of the other party.

6.8 **Signature:** This Agreement may be signed:

- (a) in any number of counterparts each of which is deemed an original, but all of which together constitute a single instrument;
- (b) on the basis of an exchange of signed facsimile copies of the execution pages, and signing of this Agreement by that method is a valid and sufficient execution.

- 6.9 **Governing law and jurisdiction:** This Agreement is governed by the law of New Zealand. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the New Zealand courts.
- 6.10 **Process Agent:** The Vendor irrevocably appoints David Shillson, Partner at Kensington Swan of 89 The Terrace, Wellington, New Zealand, facsimile number +64 4 472 2291, as its agent to accept service of process and other documents in any proceedings commenced in the Courts of New Zealand. Each party agrees that service of any process, summons, notice or document by delivery to the above address of the process agent will be effective service of process for any proceeding brought against the Vendor in a New Zealand court. If such process agent at any time ceases to be able or willing to act as a process agent for the Vendor, the Vendor will forthwith irrevocably appoint a replacement process agent who must be in the same city as the original process agent and must provide the Purchaser with a copy of the replacement process agent's written acceptance of appointment, full address and facsimile number.
- 6.11 **Costs:** Each party shall bear its own costs (including legal costs as between solicitor and client) in relation to the negotiation, preparation and execution of this Agreement and any transaction arising from this Agreement provided however should a party fail to comply with their obligations under this Agreement then the costs of the other party in requiring the non compliant party to meet or satisfy their obligations will be payable by the non compliant party.

EXECUTION

SIGNED for and on behalf of)
UTILICO INVESTMENTS LIMITED by)

 [Print Name]

 Signature

 Position

Address: C/- Kensington Swan
 89 The Terrace
 Wellington
 Attention: David Shillson
 Telephone: 04 472 7877
 Facsimile: 04 472 2291
 Email: david.shillson@kensingtonswan.com

SIGNED for and on behalf of)
H.R.L. MORRISON & CO LIMITED by)

MARKO SOGOIBUSKI
 [Print Name]



 Signature

CHIEF EXECUTIVE OFFICER
 Position

Address: 97 The Terrace
 P O Box 1395
 Wellington

Attention: Jason Boyes
Telephone: 04 473 2399
Facsimile: 04 473 2388
Email: jason.boyes@hrlmorrison.com



SIGNED for and on behalf of)
H.R.L. MORRISON & CO GROUP)
LIMITED by)
)
MARKO BOGOJEVSKI)
[Print Name])

Signature
CHIEF EXECUTIVE OFFICER
Position

Address: 97 The Terrace
P O Box 1395
Wellington
Attention: Jason Boyes
Telephone: 04 473 2399
Facsimile: 04 473 2388
Email: jason.boyes@hrlmorrison.com

